IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Customs Appeal No. 50843 of 2017 SM

[Arising out of order-in- Appeal No. 246/2015 dated 13.05.2015 passed by Commissioner of Customs(Appeals) New Delhi]

Shri Manish Gupta **Appellants**

Vs.

Commissioner of Customs **Respondent,**
New Delhi

Appearance:
Shri Avneet Singh, Advocate for the Appellants assessee
Shri K Poddar, AR for the Respondent Revenue

CORAM:
Hon'ble Mr. Justice (Dr.) Satish Chandra, President

Date of Hearing / Decision: 20.11.2017

FINAL ORDER NO. 58161 /2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against Order-in-Appeal No. 246/2015 dated 13.05.2015.

2. The brief facts of the case are that Shri Manish Gupta is proprietor of M/s. WLM India, Nehru Place, New Delhi. In the month

of January, 2012, the appellant has collected the goods and sent the export consignment through Fedex. The consignment was of about 1000 Kgs and it was found that in the consignment there was prohibited goods namely the Red Sanders (Peterocorpus Santalinus) wood.

3. The same is prohibited item as per the Wild Life Protection Act. On inquiry, the appellants submitted that one Chinesse Mr. Zhicheng Li has given the goods to the appellant. The department has levied the penalty on the appellant company. Being aggrieved, the appellant has filed the present appeal.

4. With this background, we have heard Shri Avneet Singh and Shri K Poddar, learned Counsels for the parties and perused the material available on record.

5. Learned Counsel submits that appellant is a consolidator to prepare the parcel for export. He submits that Chinese fellw was never examined by the department and no punishment was awarded to him. He left the country. However, the appellant has been held responsible for export of red sander. Lastly, he submits that penalty may kindly be cancelled.

6. On the other hand, Shri K Poddar, learned representative of the department has justified the impugned order.

7. After hearing both the parties and on perusal of material available on record, it appears that as a consolidator, it is the duty of

the appellant to dispatch the goods after making a proper inquiry. Same was not done in the instant case or was ignored. As per circumstantial evidence, he was aware about the prohibited goods. The activity is against the Nation. Unfortunately, the Tribunal has no power to enhance the penalty. Therefore, there is no occasion except to confirm the impugned order.

8. In view of the above, the impugned order is hereby confirmed for the reasons mentioned therein.

9. In the result, the appeal filed by the appellant is dismissed.

(Dictated and pronounced in open court)

(Justice (Dr.) Satish Chandra)
President

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