IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 2.1.2018

Appeal No. C/52605/2016-SM

(Arising out of Order-in-Appeal No. CC(A) Cus/ICD/475/2016 dated 25.5.2016 passed by the Commissioner of Customs (Appeals), New Delhi)

Shri Abhinav Malhotra — Appellant

Vs.

CC, New Delhi — Respondent

Appearance

Shri Sudhir Malhotra, Advocate - for the appellant

Shri U. Sengraj, D.R. - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**

Final Order No. 50052/2018

Per S.K. Mohanty :

Heard both sides.

2. Imposition of penalty under Section 112(a)(i) read with Section 114AA of the Customs Act, 1962 is the subject matter of present dispute. The adjudicating authority has imposed penalty of Rs. 5 lakhs under the said statutory provisions on the appellant on the ground that it had arranged and abetted in facilitating the illegal import of fire crackers, by financing customs duty and shipping line charges for the importers.

3. On perusal of the case records, I find that the department has not traced the person who actually imported the subject goods. The fact is also not under dispute that the appellant had not filed any declaration or bill of entry in respect of the fire crackers. Since, the department has not provided any tangible evidence, showing the involvement of the appellant in fraudulent importation of the fire crackers, I am of the view that the penalties imposed on the appellant cannot be sustained.

4. Therefore, the impugned order imposing penalties on the appellant are set aside and the appeal is allowed.

(Dictated & pronounced in open Court)

(S.K. Mohanty)
Member (Judicial)

RM