

Date of hearing/decision: 25.01.2018

(Arising out of order in original No. 05/2017-COMMISSIONER CUSTOMS dt. 22.03.2017 passed by the Commissioner of Customs, Jaipur).

Vs.

CC, Jaipur	Respondent
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Appearance:

Sh. Kumar Vikram, Advocate for the appellant
Sh. R. K. Manjhi, AR for the Respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 50398/2018

Per: **Justice (Dr.) Satish Chandra:**

The present appeal is filed against the order in original No. 05/2017-COMMISSIONER CUSTOMS dt. 22.03.2017 passed by the Commissioner of Customs, Jaipur.

2. Brief facts of the case are that M/s Bhavya Exports are engaged in the trading and export of the handicraft goods. The appellant who is a CHA has filed the Bill of Entry dated 05.11.2014 by declaring that 22 boxes were exported and declaration was made that the items were sheesham wood. As

per invoices, goods were handed over to Air Cargo Complex, Sanganer, Jaipur. Later on, it was found that the goods were having wooden jaap malas made with the beads of the sandalwoods. So, the goods were confiscated and penalty was levied on various persons including the appellant for smuggling of the sandal wood. The penalty of Rs. 1,00,000/- was levied on the appellant Sh. Sanjay Kumar Yadav, Prop. Being aggrieved, the present appeal has been filed by the appellant.

3. With this background, we heard Sh. Kumar Vikram, Id. Advocate for the appellant who submits that the appellant is innocent and he was not involved in the smuggling of the sandalwood. Cross-examination was not provided to him. He read out para 36.1 at page 54 of the impugned order.

4. On the other hand, Sh. R. K. Manjhi, Id. AR appearing for the Revenue justified the impugned order. He submits that appellant is involved in the packing of the material and was aware that the beads are sandalwood and not of the sheesham.

5. By considering the totality of facts and circumstances of the case, it appears that Sh. Sanjay Kumar Yadav, Prop. has admitted that he let his office used for packing the goods and preparing documents thereof with the active participation of Sh. Pushpendra Saini of M/s Bhavya Export and Sh. Santosh Saini, employee of Sh. Tarun Tyagi. In exchange of that he got remuneration as admitted by Sh. Sanjay Yadav as well as Sh. Santosh Saini in their respective statements.

6. From the above, it appears that Sh. Sanjay Yadav was actively involved in the packing of the goods which was prepared by red sandalwood. It means that he was well aware that the items are prohibited items. It is not the duty of the CHA to pack the goods. But, in the instant case the CHA was involved in packing of the goods which are prohibited. When it is so, then we have no sympathy with him.

7. Hence, we find no reason to interfere with the impugned order and dismiss the appeal.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant