CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 51822 of 2017

(Arising out of Order-in-Original No. 49/KB/POLICY/2017 dated 17.08.2017 passed by the Commissioner of Customs (General), New Delhi)

DATE OF HEARING : 15.02.2018
DATE OF DECISION : 15.02.2018

CC, New Delhi ….. **Appellant**
(Rep. by Sh. R.K. Manjhi, DR)

VERSUS

M/s Falcon India ….. **Respondents**
(Rep by Sh. M.S. Arora & Sh. G.S. Arora, Adv.)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 50670/2018

PER B. RAVICHANDRAN :

The present appeal is filed by the Revenue against the Order-in-Original No. 49/KB/POLICY/2017 dated 17.08.2017 passed by the Commissioner of Customs (General), New Delhi.

2. The brief facts of the case are that, the Respondent is a Customs House Agent (CHA) and certain proceedings were initiated against them under Customs Brokers Licensing Regulations, 2013

(CBLR, 2013) for certain violations of the said Regulations. The original authority, after examining the defence and all connected documents, concluded that the Respondent is liable for penalty of Rs. 25,000/- under the provisions of Regulation 18 read with Regulation 20(7) and 22 of CBLR, 2013 for various acts of omission and commission.

3. The learned DR for the Revenue contesting the impugned order submitted that for various irregularities alleged in the proceedings before the lower authorities, the penal consequences are not appropriate and commensurate. His submission is that, the original authority should have revoked the licence of the Respondent considering the seriousness of the offence.

4. The learned counsel for the Respondents, at the very outset, raised preliminary legal objection regarding the maintainability of the appeal of the Revenue relying on the decision of the Tribunal in the case of **Aramex India Pvt. Ltd. vs CC (Airport), Mumbai,** 2017 (357) ELT 420 (Tri.-Mum), and **Naresh Jaisingh vs CC (General), Mumbai-I,** 2016 (332) ELT 147 (Tri.-Mumbai). He submitted that the CBLR, 2013 did not provide for any appellate remedy to the Revenue. The legal provisions contained in the CBLR, 2013 are specific and they will prevail over general provisions of the appeal under Section 129-A of the Customs Act, 1962. He also submitted that, even otherwise, the maximum penalty imposable for violation of Regulations, 2013 is only Rs. 50,000/- and the Revenue is barred in agitating such

quantum of penalty in view of the Litigation Policy announced under Section 131-A of the Customs Act, 1962.

5. We have heard both sides and perused the material available on record. Regarding the preliminary legal objection of the Respondent, we note that the Tribunal in the cases mentioned above (supra), it has been categorically laid down that the conditions of CBLR, 2013 did not provide for an appeal by the Revenue against the order of the licensing authority. At this juncture, the learned DR submitted that, the Larger Bench decision of the Tribunal in the case of **Gaurav Pharma Ltd. vs CCE&ST, Rohtak,** 2015 (326) ELT 561 (Tri.-LB), should have relevance to decide the right of Revenue to file the appeal. He specifically drew our attention to para 20, 34 & 38 of the said order of the Larger Bench (supra). We have perused the same and noticed that the Larger Bench had examined the right of the owner of the goods to file an appeal against the decision for provisional release by the adjudicating authority under Section 110A of the Customs Act, 1962. The Tribunal had no occasion to examine the provisions of CBLR, 2013 as the same was not the point of dispute there. Further, the learned DR laid emphasis that any decision of "adjudicating authority" will involve persons and one of the persons should have a legal right to file an appeal for remedy. He submitted that, Section 129A provides for appeal to Appellate Tribunal of any person aggrieved by any order of the Commissioner of Customs. As already noted that the issue regarding right of the Revenue to file an appeal under CBLR, 2013 was specifically examined by the coordinate Bench in more than one occasions and concluded that in the presence

of specific provision for CHA as well as no specific provision for the Revenue, such appeal is not contemplated or permissible under CBLR, 2013 on the part of the Revenue. We have no reason to differ with the said decisions and accordingly by following the ratio of the said decisions (supra), we find that the appeal by the Revenue is not maintainable and the same is dismissed.

6. In the result, the appeal filed by the Revenue is dismissed.

(Dictated & pronounced in the open court)

(JUSTICE DR. SATISH CHANDRA)
PRESIDENT

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

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