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

Date of Hearing/Order: 23.2.2018

Appeal No. C/51957/2017-SM

(Arising out of Order-in-Appeal No. CC(A)CUS/D-II/PREV.NCH/854/2017 dated 20.9.2017 passed by the Commissioner of Customs (Prev.), New Delhi)

M/s Flora Impex Appellant

Vs.

CC (Prev.), New Delhi Respondent

Appearance

Shri Prabjyoti Chadha, Advocate - for the appellant

Shri G.R. Singh, D.R. - for the respondent

CORAM: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Final Order No. 50757/2018

Per Ms. Archana Wadhwa:

The challenge is to imposition of penalty of Rs. 50,000/- on the appellant who is a CHA in terms of Section 112(a) of the Customs Act.

2. As per facts on record, the appellant filed bills of entries in respect of imports made by M/s Pahwa International, which were cleared without payment of Customs duty against certificates issued by the Council for Leather Exports on actual user condition.

However, Revenue subsequently found that the goods were not used by M/s Pahwa International and were diverted to one M/s Manoj Trading Company, thus violating the condition of actual user.

3. I find that apart from above, there is no allegation against the present CHA that he connived with M/s Pahwa International. The clearances at the time of import by M/s Pahwa International were in terms of the certificate issued by the Council for Leather Exports and subsequent diversion of the goods by M/s Pahwa International to M/s Manoj Trading Company cannot result in any imposition of penalty upon the present CHA. Accordingly, the impugned orders are set aside and appeal allowed with consequential relief.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

RM