CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

COURT –I

Date of hearing/decision: 02.04.2018

Appeal No. C/51876/2017- CU (DB)
[Arising out of Order-in-Appeal No. CC-A-CUS-D-II-ICD-TKD-EXPORT-891-2017 dated 20/09/2017 passed by the Commissioner of CUSTOMS-DELHI - I (Appeal).]

SANJEEV KUMAR YADAV (CHA). Appellant

Vs.

C.C.-NEW DELHI Respondent

Appearance:
Reena Rawat, Advocate for the appellant
R.K. Majhi, DR for the Respondent

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

Final Order No. 51138/2018

Per: Justice (Dr.) Satish Chandra:

1. The present appeal is filed against Order-in-Appeal No. 891/2017.

2. The brief facts of the case are that the appellant filed 5 Bills of Entry on behalf of the M/s Glorious India, a proprietorship concern of Shri Vivek Singh, in the month of March, 2011 for clearance of consignments of Synthetic Diamond Powder, on the basis of the documents provided by the importer. The statements of Shri Vivek Singh as well as the appellant were recorded by the Custom Authorities. It was found by the Custom Authorities that the importer in the declared documents has mentioned 1gm = 1 carat as against 1 gm = 5 carats, of the diamond powder. So, the case of under valuation was made out by the custom authorities.

3. In this scenario it was also alleged by the authority that the appellant has failed to verify the KYC norms as provided by the circular dated 08/04/2010. The appellant has not verified properly all the documents and with the hands and glove of the importer, he has evaded the custom duty. So, the penalty of Rs. 5 Lakhs was levied on the appellant. Being aggrieved, the appellant has filed the present appeal.

4. With this background we heard Ms Reena Rawat, Ld. Advocate for the appellant and Shri R.K. Majhi, Ld. DR for the Revenue.

5. After hearing both the parties and on perusal of record, it appears that the appellant as a CHA was engaged by the importer for clearance of the Diamond powder and he has admitted that they were aware that the carats were wrongly shown in the Documents. When it is so then it is a case of negligence on the part of the appellant. When there is a negligence then we find the justification of levy of the penalty. However, in the peculiar circumstances of the case, we are of the view that the CHA is not an expert in the carats viz-a-viz grams. So, the penalty is looking on higher side.

6. Hence, we modify the impugned order and reduce the penalty to Rs. 2,50,000/- (Two Lakhs Fifty Thousand). Thus the appellant get partial relief of Rs. 2,50,000/- (Two Lakhs Fifty Thousand).

7. In the result, appeal filed by the appellant is partly allowed.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Rekha