

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

COURT-I

Date of hearing/ Decision: 06.04.2018

Appeal No. C/50502 /2018 (DB)

[Arising out of the Order-in-Original No. 11/KB/POLICY/2018 dated 09/02/2018 passed by Commissioner of CUSTOMS-DELHI - I)]

DEX LOGISTICS P LTD

Appellant

Vs.

C.C.-NEW DELHI

Respondent

Appearance:

Present Shri Prabhat Kumar, Advocate for the appellant

Present Shri R.K. Majhi, DR for the respondent

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

FINAL ORDER No. 51333/2018

Per: V. Padmanabhan

1. The present appeal is filed against the Order-in-Original No. 11/2018 dated 09/02/2018. The appellant is a Customs Broker licensed by the Commissioner of Customs, New Delhi. Proceedings were initiated against the appellant by issue of show cause notice dated 23/08/2017 proposing for revocation of the Customs Broker License issued under the Customs Broker Licensing Regulation, 2013. After the due process of adjudication the Commissioner, vide the impugned order, revoked the Customs Broker License and in addition ordered for forfeiture of the whole amount of security deposit of Rs. 75,000. Aggrieved by the impugned order present appeal has been filed.
2. With this background we heard Dr. Prabhat Kumar, Ld Advocate for the appellant and Shri R.K. Majhi, Ld. DR for the Revenue.

3. It is the submission of the Ld. Advocate for the appellant that proceedings initiated by the show cause notice dated 23/08/2017 was time barred for violation of Regulation 20 of CBLR, 2013. He further argued that on merits also the revocation of the appellant's Custom Broker License was not justified.
4. Ld. Advocate argued that the proceedings initiated under show cause notice dated 23/08/2017 was on the basis of the Order-in-Original dated 28/04/2017 passed by the Principal Commissioner Customs, New Custom House, New Delhi in which the alleged Customs offence was adjudicated by the Commissioner. Hence, it is his submission that date of this Order-in-Original should be considered as the Offence Report based on which the CBLR proceedings stand initiated. In terms of Regulation 20, the show cause notice for proposing revocation of license is required to be issued within a period of 90 days and since the show cause notice has been issued beyond such period, the proceedings are time barred.
5. The Ld. DR Justified the impugned order.
6. He submitted that even though Order-in-Original is dated 28/04/2017, the date of receipt of such Order-in-Original is not available on record.
7. We have heard both sides and perused the record. After perusal of the record we note that the issue can be settled on the preliminary ground of time bar raised on behalf of the appellant. Regulation 20 has prescribed the time limit of 90 days for issue of show cause notice to the Custom Broker for taking as any

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disciplinary action against the Custom Broker. In the present case the alleged offence has been taken cognizance of by the disciplinary authority on the basis of the Order-in-Original dated 28/04/2017 in which the alleged customs offence was adjudicated and decided. Hence this is to be regarded as the Offence Report and the period of 90 days from the date of such order would expire towards the end of month of July, 2017. Since the show cause notice has been issued beyond the period of 90 days, i.e. on 23/08/2017, we are of the view that the proceedings initiated are hit by time bar specifically provided in Regulation 20.

8. It is settled law that the time limit prescribed in the CBLR 2013 for are sacrosanct and cannot be violated. In this regard we take note of the decisions of the Hon'ble Delhi High Court in the following cases:-

- i. Indair Carrier Pvt. Ltd. V/s CC (General) 2016 (337) ELT 41 (Del.)***
- ii. Overseas Air Cargo Servcies V/s CC (General), New Delhi 2016 (340) ELT 119 (Del.)***

9. In view of above the impugned order is set aside and the appeal is allowed.

[Order Dictated and Pronounced in the open court]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

Rekha

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