In the Customs, Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi-110066

Appeal No.C/51923/2017
(Arising out of Order-in-Original No.05/NKU(05)ADG(Adj)/DRI/N.Delhi/2017-18 dated 07.03.2017 passed by ADG (Adj.), DRI, New Delhi)

Shri Pawan Kumar Ralli …Appellant

Vs

C C (ICD)(TKD) (Imp.) New Delhi …Respondent

Appearance:
Present for the Appellant : Shri B. Bhushan, Adv.

Present for the Respondent : Shri A.K. Singh, DR

Coram: HON'BLE JUSTICE (DR) SATISH CHANDRA, PRESIDENT
HON'BLE MR V.PADMANABHAN, MEMBER (TECHNICAL)

Date of hearing: 05.04.2018
Date of decision:24.04.2018

Final Order No.51600/2018

Per V. Padmanabhan,

The appeal is against the Order-in-Original No.5/2017-18 dated 07.08.2017. The impugned order has discussed the alleged illegal imports by one M/s Mehak Overseas. The un-declared velvet cloth stands confiscated with an option to redeem on payment of fine. The declared value in Bill of Entry was rejected and re-determined and differential duty was demanded. Further, for past clearances made also, differential duty was demanded. Penalties were imposed on various persons. The present appeal has been filed only by Shri PK Ralli and hence, we are not discussing the case in respect of any of the other persons.

2. With the above background, we heard Shri Bharat Bhushan, Advocate as well as Shri AK Singh, DR.

3. The case involved mis-declaration of goods by M/s Mehak Overseas. The investigation undertaken by Directorate of Revenue Intelligence (DRI) revealed that M/s Mehak Overseas (Prop. Sh Vivek Chawla) had imported several consignments in the past through ICD Tughlakabad and Calcutta Customs House. The investigation further revealed that M/s Mehak Overseas had lent only their name and address and IEC Code number but the *defacto* importer was Shri Pawan Kumar Ralli. It has emerged that Shri PK Ralli has handed-over the relevant documents to the CHAs at Delhi as well as Calcutta for filing the import documents. These facts have been confirmed by Shri Ashok Sharma, Director of M/s HLPL Global Logistics Pvt Ltd, CHA. Further, it has emerged that Shri PK Ralli had accompanied the prop. Shri Vivek Chawla for opening the account in Axis Bank in the name of the fictitious firm, M/s Mehak Overseas. The adjudicating authority has imposed penalty on Shri PK Ralli under Section 112/114A, for actively involved in the act of abetting smuggling by M/s Mehak Enterprises.

4. In the present appeal, such penalty imposed stands challenged mainly on the ground that during the period 13-14 October, 2014, Shri PK Ralli was in the

custody of DRI officers and hence could not have met the CHA alongwith Shri Vivek Chawla, proprietor of M/s Mehak Overseas for handing-over the export documents. From the facts of the case, as uncovered by the DRI investigation, it is evident that Shri PK Ralli had colluded with Shri BK Goyal in arranging the import and smuggling of goods in the name of fictitious firm M/s Mehak Overseas. It is on record that Shri Ralli has accompanied Shri Vivek Chawla to the Axis Bank to open the account in the name of the fictitious firm and also coordinated with the CHA by handing-over the imported documents and arranging for customs clearance of the smuggled goods. In view of the facts being admitted in statements, the date on which such documents were handed over pales in significance.

5. In view of the above, we find no infirmity in the order passed by the adjudicating authority as far as Shri PK Ralli is concerned. Penalty is upheld for the reasons given , in detail, in the impugned order.

6. In the result, appeal is rejected.

(Pronounced in the court on 24.04.2018)

(Justice Dr. Satish Chandra)	**(V. Padmanabhan)**
President	**Member (Technical)**

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