

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

EASTERN ZONAL BENCH: KOLKATA

Customs Appeal Nos. C/238 & 258/09, C.O. 74/09

(Arising out of Order-in-Original No.05/CUS/CC (P)/W.B./2009 dated 30.01.2009 passed by the Commissioner of Customs (Preventive), W.B.,Kolkata)

Commissioner of Customs (Prev.), W.B., Kolkata

Applicant (s)/Appellant (s)

Vs.

- 1) Sri Achintya Bhattacharyya
- 2) Shri Gobinda Lal Sen

Respondent (s)

Appearance:

Shri S.N. Mitra, A.C. (AR) for the Appellant (s)

NONE for the Respondent (s)

CORAM:

Hon'ble Shri P.K.Choudhary, Member (Judicial)
Shri Bijay Kumar, Hon'ble Technical Member

Date of Hearing/Decision:- 15.05.2018

ORDER NO. F/O- 76083 to 76084/2018

Per **Shri Bijay Kumar**

The Department is in appeals before us against the impugned order No.05/CUS/CC (P)/W.B./2009 dated 30.01.2009 passed by the Commissioner of Customs (Preventive), W.B.,Kolkata.

2. Limited point for consideration before us is that no penalty has been imposed vide the impugned order on the two Officers. The Department

has not produced before us the show cause notice wherein a specific charge has been made against these officers.

3. We have gone through the impugned order where the Ld. Commissioner in his order has categorically stated that he refrained from imposing penalty against Shri Achintya Bhattacharyya, Supdt. and Shri Gobindo Lal Sen, Inspector under the Customs Act, 1962 due to lack of concrete evidence. We don't find any ambiguity in the order of the adjudicating authority.

2. In view of above, we dismiss the appeals filed by the Department.

(Dictated and Pronounced in the Open Court)

Sd/- 15/5/2018

(P.K.Choudhary)
MEMBER(JUDICIAL)

Sd/- 15/5/2018

(Bijay Kumar)
MEMBER(TECHNICAL)

k.b/-