

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

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75616 of 2022

(Arising out of Order-in-Original No.VIII(13)06-CHA/B.K.Singh/2012 dated 28.04.2022 passed by Commissioner of Customs (Preventive), Patna)

Shri Braj Kishore Singh

Ashram Road, Ward No.10,Raxaul, Dist.-East Champaran, Pin-845305

Appellant

VERSUS

Commissioner of Customs (Prev.), Patna

Bir Chand Patel Path, Patna-800001

Respondent

APPEARANCE :

Shri Arijit Chakraborty, Advocate for the Appellant

Shri S.Chakraborty, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75885/2023

DATE OF HEARING : 16 .06.2023
DATE OF PRONOUNCEMENT :22.06.2023

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein their right to be granted Customs House License, which stands forfeited.

2. The facts of the case are that in terms of Regulation 4 of the erstwhile Custom House Agents Licensing Regulation, 2004 (CHALR), the appellant applied for grant of License to work as Customs House Agent (CHA) in terms of Notification No.01/2011 dated 21.06.2011. The appellant also submitted Form A with academic qualification along with "G" Card.

2.1 Thereafter, in terms of Regulation 8 of CHALR, the appellant participated in written examination held on 23.09.2011 and was declared "Pass" vide intimation Letter dated 28.02.2012.

2.2 Thereafter, the appellant was allowed to Oral Test on 30.03.2012 and also declared "Pass" vide letter dated 11.05.2012.

2.3 Thereafter, Police Verification was done and in terms of Regulation 9 (1) of CHALR, 2004, the Commissioner, on payment of Rs.5,000/-, grants the license in Form B to the appellant, who has passed the examination referred to in Regulation 8. However, the appellant did not pay the said amount and pursued the matter through various reminder for grant of CHA License but the impugned communication dated 28.04.2022 was received by the appellant wherein in terms of Regulation 7 of Customs Brokers Licensing Regulations, 2018, their right to be granted the License, has been forfeited.

2.4 Against the said order, the appellant is before us.

3. The Id.Counsel appearing on behalf of the appellant submits that after passing examination, in terms of CHALR, 2004, the appellant wrote various letters to the authorities stating the facts that for issuing of the License, one such letter was written by the appellant on 12.09.2012, further, on 03.12.2014, 16.08.2018, 25.03.2019, 09.09.2019 & 10.12.2019, but none of the said letter has been replied to the appellant stating that due to failure on payment of Rs.5,000/-, the License cannot be granted and finally, vide impugned order dated 28.04.2012, their right to be granted a CHA License has been forfeited.

4. We find that there is a gross violation of principles of natural justice. The appellant has pursued the matter with the authorities regularly, but none of the reminder was complied, stating that due to failure of payment of Rs.5,000/-, the License cannot be granted. If this

reply was given to the appellant at any stage of time and for non-compliance to make such deposit, in that circumstances, the impugned order would have been sustained. But no such action has been taken by the authorities below.

5. In that circumstances, we hold that the impugned order is bad in law. Accordingly, the same is set aside.

6. We direct the authorities below to issue a License to the appellant on payment of Rs.5,000/- as required under Regulation 9 of CHALR, 2004 within 30 days from the date of receipt of this order. The appellant is also directed to make a deposit of Rs.5,000/- in terms of Regulation 9 of CHALR, 2004 within 7 (seven) days of receipt of this order, failure thereof, the right to grant CHA License shall be forfeited.

7. In view of the above terms, the appeal is disposed off.

(Pronounced in the open court on 22.06.2023)

Sd/
(Ashok Jindal)
Member (Judicial)

Sd/

(K.Anpazhakan)
Member (Technical)

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