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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76647 of 2019

(Arising out of Order-In-Appeal No.03-04/CUS(A)/GHY/2019 dated 26/02/2019 passed by Commissioner (Appeals), CGST, Central Excise and Customs, Guwahati.)

M/s. Hemanti Shaw
(D/o Shri Mahesh Shaw,
25, Fakir Chand Mitra Street, Raja Ram Mohan Sarani,
Kolkata, 700009 (W. B.))

Appellant

VERSUS

Commr. of CGST & CX, Guwahati
(5th Floor, Customs House, Nilmani Phukan Path,
Christian Basti, G. S. Road, Guwahati-781005)

R**espondent**

APPEARANCE :

Mr. D. Banerjee & Mr. S. Bhattacharya, both Advocate for the Appellant
Mr. S. Chakraborty, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO.75534/2025

Date of Hearing : 28 February 2025
Date of Pronouncement : 03.03.2025

PER R. MURALIDHAR:

The appellant was travelling from Imphal to Kolkata by Indigo Airlines on 12/10/2018. She was frisked and it was found that she had concealed seven pieces of gold biscuits weighing 1162.7 grams. In her recorded Statement, she has admitted that she was a carrier of gold and was engaged by some persons to transport the gold biscuits. She had stated that the entire transaction was planned by one Mr. Om Kumar Gupta. After due process, the Adjudicating Authority absolutely confiscated the seven gold biscuits valued at Rs. 34,60,198/- and imposed penalty of Rs. 1,50,000/- on the appellant and penalty of Rs. 1,50,000/- on Om Kumar Gupta. Being aggrieved, the appellant filed an appeal before the Commissioner (Appeals) submitting that she was a mere carrier and has taken after the work only to make some money to take care of her ailing son requiring medical attention. The Commissioner (Appeals) dismissed the appeal. Being aggrieved, the appellant is before the Tribunal.

2. The Learned Advocate fairly concedes that this is a case of carrying of gold by the appellant. He submits that her son was very sick and she required money to take care of his medical expenses. Only for this purpose, she undertook the risk of carrying the gold. He further submits that the appellant is financially very weak and prays that the sympathetic view may be taken and penalty may be waived purely considering the factual details.

3. The Learned AR reiterates the findings of the lower authorities. He submits that admittedly, the appellant was acting as a carrier of the smuggled gold. Taking a sympathetic view and waiving of penalty will embolden others to carry out the activities. Hence, he justifies the penalties imposed on the appellant.

4. Heard both sides and perused the appeal papers.

5. I am given to understand that the other noticee Om Kumar Gupta on whom penalty of Rs. 1,50,000/- was imposed and who is the main mastermind in the entire transaction, has been given the reprieval at the Commissioner (Appeals) level and the penalty against her is already dropped. I also find that being a mere carrier, she has taken up this risky job not for any profit motive but to take care of her ailing son. Therefore, I feel that sympathetic view is required to be taken while deciding the amount of penalty.

6. The appellant has made a pre-deposit of Rs. 15,000/- while filing this appeal. I hold that this would meet the requirement. Therefore, the penalty stands reduced from 1,50,000/- to 15,000/-. The amount already paid as pre-deposit is required to be adjusted by the Revenue towards realization that the penalty amount from the appellant.

7. The Appeal stands disposed off thus.

(Pronounced in the open court on 03.03.2025)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja