IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: C/237/2009

[Arising out of Order-in-Original No: CC-SJS/51/2008/Adjudication. ACC dated 22nd December 2008 passed by the Commissioner of Customs (Import), ACC, Mumbai.]

Samrat Clearing Agency …***Appellant***

versus

Commissioner of Customs (Import)
ACC, Mumbai ***…Respondent***

Appearance:

Shri Anil Balani, Advocate for appellant

Shri M K Mall, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 13/06/2017
Date of decision: 13/06/2017

ORDER NO: A/92307 / 2017

Show cause notice was issued to the appellant, M/s Samrat Clearing Agency, a custom house agent, along with the importer, M/s Bilakhihia Holdings Pvt Ltd, in proceedings for misdeclaration in bill of entry. The impugned order-in-original no. CC-SJS/51/2008 dated 22nd December 2008 of Commissioner of Customs (Import), Air

Cargo Complex, Mumbai imposed penalty of ₹1,00,000 on them under section 112 of Customs Act, 1962.

2. Heard Learned Counsel for appellant and Learned Authorized Representative.

3. From the records, it is observed that the adjudicating authority has failed to render a finding on the role of the agent in the misdeclaration. Furthermore, the contention that appellant was not in receipt of the show cause notice and was deprived of an opportunity to participate in the adjudication proceedings appears to bear out from the records.

4. It is clear that the principles of natural justice have been contravened. Imposition of penalty in the circumstances is not justified. Nevertheless, there is allegations in the show cause notice that need to be addressed.

5. Accordingly, the impugned order is set aside to the extent that it concerns the appellant and the matter is remanded back to the original authority for a fresh decision after giving due notice to the appellant.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

**/as*