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

APPEAL NO: C/85866/2013

[Arising out of Order-in-Original No: CAO NO./CC/RS/23/2012-13 ADJ.ACC dated 24th December 2012 passed by the Commissioner of Customs (Import), ACC, Mumbai.]

For approval and signature:

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

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	Yes
2.	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
3.	Whether Their Lordships wish to see the fair copy of the Order?	:	Seen
4.	Whether Order is to be circulated to the Departmental authorities?	:	Yes

S A Dalal & Co … ***Appellant***

versus

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

Appearance:

Shri N D George, Advocate for appellant

Shri Manoj Kumar, Assistant Commissioner (AR) for respondent

CORAM:

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

Date of hearing: 20/02/2019
Date of decision: 20/02/2019

ORDER NO: A/85495 / 2019

Per: C J Mathew

This appeal lies against the penalty of ₹ 10,00,000/- imposed on M/s SA Dalal & Co under section 112(a) of Customs Act, 1962 in order-in-original no. CAO NO./CC/RS/23/2012-13 ADJ.ACC dated 24th December 2012 of Commissioner of Customs (Import), ACC, Mumbai in the matter of import of mobile accessories by M/s Hari Krishna International.

2. Appellant is a customs house agent issued with licence to operate by the jurisdictional Commissioner of Customs. It has been held by the adjudicating authority that the clearance of the impugned goods at the Air Cargo Complex was covered by documents that allegedly contained false details and declarations of the description and value of the goods. According to the impugned order, the appellant was aware of the mis-use of the 'import export code' belonging to the importer by other individuals and this was held to suffice as abetment for which confiscation under section 111(d) and

111(m) of Customs Act, 1962 and imposition of penalty under section 112 of Customs Act, 1962 was justified.

3. It is the contention of Learned Counsel that there is no statement on record that incriminates the appellant and that no investigation was undertaken to obtain any other evidence of complicity. We find this to be so.

4. We also find that the only role of the appellant was the submission of the bill of entry. In the absence of any investigation that implicates the appellant or any other record of involvement or fore-knowledge of the value and actual description of the goods, invoking of section 112 of Customs Act, 1962 against the appellant is itself questionable.

5. In view of the facts and circumstances, we find no reason to sustain the penalty imposed on the appellant which is set aside. Appeal is allowed.

(Pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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