CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Customs Appeal No.86549/2013

[Arising out of Order-in-Original No.CAO NO./CC/RS/23/2012-13 ADJ.ACC, dt.24.12.2012, passed by the Commissioner of Customs (Import), Air Cargo Complex, Sahar, Andheri (East), Mumbai]

M/s Parikh Clearing Agency Pvt. Ltd ......**Appellant**
803, President House,
Opp. C.N. Vidyalaya, Ambawadi,
Ahmedbad

VERSUS

Commissioner of Customs (Import), ...**Respondent**
Air Cargo Complex, Sahar,
Andheri (East),
Mumbai-400 099

Appearance:
Shri Anil Balani, Advocate for the Appellant
Shri Bhushan Kamble, AC (AR) for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.A/85761/2019

Date of Hearing: 22.04.2019
Date of Decision: 22.04.2019

PER: D.M. MISRA

Heard both sides. This appeal is filed against Order-in-Original No.CAO NO./CC/RS/23/2012-13 ADJ.ACC, dt.24.12.2012, passed by the Commissioner of Customs (Import), Mumbai.

2. At the outset, the learned Advocate Shri Anil Balani for the Appellant submits that this Tribunal, while considering the role of another CHA M/s S.A. Dalal & Co. engaged by the same importer for import through air cargo complex, Mumbai, analysing the evidences, observed that no case has been made out by Revenue against the said CHA, M/s S.A. Dalal & Co., accordingly set aside the penalty imposed under Section 112 of Customs Act, 1962. Drawing our attention to the allegation of similar nature at Para 3.28 of the impugned order, the learned Advocate submits that the present appellant-CHA also carried out similar job for import through Ahmedabad Airport. Therefore, penalty imposed on the present appellant is also liable to be set aside.

3. The learned A.R. for the Revenue reiterates the findings of the learned Commissioner.

4. We find that this Tribunal, while deciding the role of M/s S.A. Dalal & Co. for import through Mumbai airport, observed as follows:-

> "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.
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> 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."

5. On going through the impugned order, we find that similar observation also recorded against the present Appellant while imposing penalty. Following the aforesaid order of this Tribunal, the impugned order imposing penalty on the Appellant CHA is also liable to be set aside. Consequently, we set aside order imposing penalty on the Appellant. Appeal is allowed.

(Dictated and pronounced in the open court)

(D.M. Misra)
Member (Judicial)

(P. Anjani Kumar)
Member (Technical)

CBB