

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

Appeal No. C/252/12

(Arising out of Order-in-Original CAO No. 01/2012/CAC/
CC(G)SLM/CHA(Admin) dated 04.01.2012 passed by
Commissioner of Customs (General), Mumbai)

Om Freight Forwarders P. Ltd.

Appellant

Vs.

**Commissioner of Customs (General)
Mumbai**

Respondent

Appearance:

Shri Anil Balani, Advocate

for appellant

Shri K.M. D' Souza, Asst. Commr (AR)

for respondent

CORAM:

Hon'ble Mr. S.K.Mohanty, Member (Judicial)

Hon'ble Mr. P. Anjani Kumar, Member (Technical)

Date of Hearing / Decision: 17.09.2018

FINAL ORDER NO. **A/88411/2018**

Per: S.K. Mohanty

The appellant has filed this appeal against the impugned order dated 04.01.2012, whereby it was ordered by the Commissioner of Customs (General), Mumbai for forfeiture of the entire amount of security deposit made by the CHA.

2. Heard both sides and perused the records.

3. The appellant, in this case, is a CHA. There were two cases reported against the appellant in 2010. In both the cases, enquiry proceedings were initiated by the Enquiry Officer and the

proceedings were closed, holding that the articles of charges “not proved”. In the impugned order, the learned Commissioner has held that the appellant CHA is responsible for lack of adherence to Regulation 19(8) of the CHALR, 2004. It is observed that there was supervision by the appellant over the employees. In this context, we have perused the Enquiry Officer’s report, as reproduced in the adjudication order. It is concluded that the charge seems to be based on assumption borne out of suspicion and totally out of context and the charge is not proved. Regulation 19(8) states that the CHA shall exercise such supervision, as may be necessary to ensure the proper conduct of any such employees in the transaction of business. After going through the Enquiry Officer’s report, we do not find any justifiable reason in support of forfeiture of the security deposit. It is seen that the appellant had terminated the services of Shri Vijay Dixit, the erring employee. Hence, in our considered view, the forfeiture of security deposit cannot be sustained. Accordingly, the impugned order passed in forfeiting the security deposit is set aside. The appeal filed by the appellant is allowed.

(operative part pronounced in Court)

(P. Anjani Kumar)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)