

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

Appeal No. C/837/2012

(Arising out of Order-in-Original No. 25/CAO/CAC/CC(G)/SLM/CHA/2012 dated 01.05.2012 passed by Commissioner of Customs, Mumbai)

**Commissioner of Customs
Mumbai**

Appellant

Vs.

Sylvester & Co.

Respondent

Appearance:

Shri Ramesh K. Asst. Commr (AR)
Shri Girish Nadkarni, Advocate

for appellant
for respondent

CORAM:

**Hon'ble Mr. S.K.Mohanty, Member (Judicial)
Hon'ble Mr. Sanjiv Srivastava, Member (Technical)**

Date of Hearing/Decision: 17.12.2018

FINAL ORDER NO. **A/88413 / 2018**

Per: S.K.Mohanty

Revenue is in appeal against the impugned order dated 01.05.2012 passed by the Commissioner of Customs (General), Mumbai, wherein the charges leveled against the appellant-CHA under CHALR, 2004 were dropped.

2. Heard both sides and perused the records.

3. Revenue has assailed the impugned order on the ground that since the appellant had violated the conditions contained in the Regulation 13(d), 13(e) and 13(n) of the CHALR, 2004, it is exposed to the penal consequences provided under the said regulations. On perusal of the case records, more specifically, the enquiry report dated 15.06.2011 and the observations made by the adjudicating authority, we find that the appellant did not make any mis-declaration with regard to description, quantity and value of the goods in the Bills of Entry and also had claimed the benefit of exemption provided under Notification No. 21/2002 dated 01.02.2002 on the basis of supporting documents provided to it at the time of importation of the goods. Further, no evidence is also forthcoming to support the fact that the appellant had specific knowledge of the subsequent mis-use of the goods by the importer. Since the appellant, in the capacity of CHA, had performed its duties and functions within the parameters of CHALR, 2004 in handing over the goods to the importer/transporters, he cannot be held responsible for the subsequent events taken place for clearance of the imported goods from the port of import. Therefore, upon proper analysis of the facts of the case, the learned adjudicating authority has correctly dropped the charges leveled against the appellant under CHALR, 2004.

4. In view of above, we do not find any infirmity in the impugned order. Accordingly, the appeal filed by Revenue is dismissed.

(Operative part pronounced in Court)

(Sanjiv Srivastava)
Member (Technical)

(S.K.Mohanty)
Member (Judicial)

nsk