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

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 689 of 2011

(Arising out of Order-in-Appeal No. 185 & 186/MCH/ADC/Gr. VB/2011 dated 07.09.2011 passed by Commissioner of Customs (Appeals), Mumbai Zone-I)

Yusuf Poonawala **.....Appellant**
Flat No.8, Firdaus Manzil,
Band Stand, Bandra (West),
Mumbai-400050

VERSUS

Commissioner of Customs (Import), Mumbai **.....Respondent**
New Custom House, Ballard Estate,
Mumbai-400001

WITH

Customs Appeal No. 690 of 2011

(Arising out of Order-in-Appeal No. 185 & 186/MCH/ADC/Gr. VB/2011 dated 07.09.2011 passed by Commissioner of Customs (Appeals), Mumbai Zone-I)

Yusuf Poonawala **.....Appellant**
Flat No.8, Firdaus Manzil,
Band Stand, Bandra (West),
Mumbai-400050

VERSUS

Commissioner of Customs (Import), Mumbai **.....Respondent**
New Custom House, Ballard Estate,
Mumbai-400001

Appearance:

None for the Appellant
Smt. Trupti Chavan, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/88511-88512 / 2018

Date of Hearing: 27.08.2018
Date of Decision: 27.08.2018

Per: S.K. MOHANTY

None appeared for the appellant, despite notice. Heard the learned AR for Revenue.

2. These appeals are directed against the impugned order dated 07.09.2011 passed by the learned Commissioner of Customs (Appeals), Mumbai. Briefly stated, the facts of the case are that Shri Abdul Rahman Aboobeker and Shri P.M. Naushad had imported BMW motor vehicles by declaring the same as 1996 and 1997 make. However, during detailed enquiry, the officers of DRI found that the vehicles were manufactured in the year 1999 and 2001. Further, it has also been observed that the importers had submitted forged documents before the Customs at the time of assessment, to facilitate mis-declaration of vehicles, with the intent to evade a part of legitimate duties of Customs. The case against the present appellant is that he had actively aided and abated to dispose of the vehicles, in violation of the Foreign Trade Policy read with the public notice issued thereunder. Accordingly, after initiating of show cause proceedings, the matter was adjudicated against the appellants, in imposing penalties under Section 112(a) and 112(b) of the Customs Act, 1962. On appeal, the learned Commissioner (Appeals) has dismissed the appeals, holding that the appellant had played active role in disposal of the vehicles, contrary to the provisions laid down under the statute. He has also relied upon the Order No. A/548/2009/SMB/Gr. dated 24.08.2009 passed by this Tribunal, holding the appellant guilty in similar imports made earlier.

3. On perusal of the case records, including the impugned order passed by the learned Commissioner (Appeals), I find that the appellant had not made out any case in support of non-imposition of penalties. The learned Commissioner (Appeals) has elaborately discussed the issue in support of confirmation of the penalty demand on the appellants. Further, I also find that this Tribunal in the case of the appellant itself [reported in 2011 (264) E.L.T. 261 (Tri.-Mumbai)], on an identical issue, for the earlier period has rejected the appeal, holding that the appellant

was directly involved in importation of cars in fraudulent manner.

4. In view of above, I do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals). Accordingly, appeals filed by the appellant are dismissed.

(Operative part of the order pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

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