

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

WEST ZONAL BENCH

Customs Appeal No: 58 of 2010

[Arising out of Order-in-Original No: 153/2009/CAC/CC/SLM dated 22nd October 2009 passed by the Commissioner of Customs (General), Mumbai.]

Frontier Shipping Agencies Pvt Ltd
6 Ground Floor, Shivam Paradise, Behind Dena Bank
Bhandup (W), Mumbai – 400 078

... Appellant

versus

Commissioner of Customs (General)
New Custom House, Mumbai – 400 001

...Respondent

APPEARANCE:

Shri CK Dawar, Managing Director of appellant

Ms Trupti Chauhan, Assistant Commissioner (AR) and Shri Bhushan Kamble,
Assistant Commissioner (AR) for the respondent

CORAM:

**HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)**

FINAL ORDER NO: A/88596 / 2018

DATE OF HEARING: 27/12/2018
DATE OF DECISION: 27/12/2018

PER: C J MATHEW

In this appeal of M/s Frontier Shipping Agencies Pvt Ltd, against order-in-original no. 153/2009/CAC/CC/SLM dated 22nd October 2009 of Commissioner of Customs (General), Mumbai, challenge is to the proceedings under regulation 22 of the Custom House Agents

Licensing Regulations, 2004 ordering forfeiture of the security amount deposited by the appellant herein.

2. It would appear that the proceedings were initiated in a matter pertaining to the import of four sea lions, thirteen dogs and seven cats, along with circus equipment, *vide* bill of entry for direct delivery. The imports were found to be in violation of the provisions of Customs Act, 1962 for having declared the value of each sea lion at US \$ 500 instead of the actual value of US \$ 5,000. The inquiry mandated by the Regulations was restricted to two articles of charge, *viz.*, breach of regulation 13(e) requiring the agent to advise compliance with the provisions of Customs Act, 1962 and, in case of non-compliance, bring to the notice of the customs authorities and breach of regulation 13(n) which mandates discharge of duties with utmost speed and efficiency. The enquiry officer held both the charges proved on the finding that there was collusion between the importer and agent for evading customs duty of ₹ 3,08,950/- and that agent had failed to advise the requirement of certificate from the Animal Quarantine Officer for taking delivery of live animals.

3. Appellant, represented by his Managing Director, was heard. We have heard Learned Authorised Representative.

4. It is seen from the records that the issue involved in this proceeding pertains to the import of circus equipment and animals that,

after performances, were required to be sent back. It was also submitted that the animals had to be removed urgently owing to problems created by ambient temperature conditions. It is also submitted that the statement of the then Managing Director was not provided to the licence-holder in the proceedings. We also find that the show cause notice was issued on 24th December 2004 and that inquiry report was submitted only on the 17th April 2009 with the order of forfeiture of deposit issued on 23rd October 2009.

5. From the timelines, it is seen that there has been an inordinate delay in completion of the proceedings which is in breach of the prescriptions in the Custom House Agents Licensing Regulation, 2004.

There is no finding on record that the delay was attributable to lack of cooperation, or wilful dereliction, on the part of the custom house agent.

6. Considering the manner, and nature of infraction as well as the unexplained delay in completion of the proceedings, we find that the order of forfeiture is not warranted.

7. Accordingly set aside the impugned order and allow the appeal.

(Pronounced in open court)

(C J Mathew)
Member (Technical)

(Ajay Sharma)
Member (Judicial)