CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Misc. Application (EH) No. 85183 of 2021

In

Customs Appeal No. 85226 of 2021

(Arising out of Order No. 39/2020-21 dated 03.02.2021 passed by the Principal Commissioner of Customs (General), Mumbai)

M/s H.G. Mehta & Co. Pvt. Ltd. **.... Appellant**
No. 15, 3rd Floor,
Friends Union Premise Co-op Society Ltd.
227, P.D'Mello Road, Mumbai - 400001

Versus

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

AND

Customs Misc. Application (EH) No. 85207 of 2021

In

Customs Appeal No. 85271 of 2021

(Arising out of Order No. 41/2020-21 dated 12.02.2021 passed by the Principal Commissioner of Customs (General), Mumbai)

M/s H.G. Mehta & Co. Pvt. Ltd. **.... Appellant**
No. 15, 3rd Floor,
Friends Union Premise Co-op Society Ltd.
227, P.D'Mello Road, Mumbai - 400001

Versus

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

Appearance:

Shri Jhamman Singh, Advocate for the Appellant

Shri Manoj Das, AC, Authorized Representative for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85768-85769 / 2021

Date of Hearing: 10.03.2021
Date of Decision: 10.03.2021

Per: Dr. D.M. Misra

Heard both sides.

2. These miscellaneous applications are filed seeking early hearing of the appeal on the ground that the appellant's Customs Broker License No. 11/362 has been suspended on 03.02.2021 by the Principal Commissioner of Customs, Mumbai rendering 32 to 35 employees jobless. It is submitted that even though post decisional hearing was scheduled on 15/25.02.2021, apprehending that the requisite documents would not be given, the present appeals have been filed on 10.02.2021 & 18.02.2021 respectively.

3. These matters were taken up yesterday but due to internet connectivity failure at the end of learned Advocate for appellant, it could not be completed and heard today.

4. The Learned Advocate has vehemently argued to allow their applications and hear their appeals on out of turn, advancing reasons that their employees are jobless and they have a good track record of seven decades as Customs Broker; the present suspension of license has come as a shock to them being issued without any material against them.

5. Learned AR for the Revenue has no objection in allowing the early hearing applications of the appellant and hearing their appeals.

6. Consequently, the early hearing applications are allowed and with the consent of both sides, keeping in mind the urgency of the matter and also since the issue revolves in a very narrow compass, the appeals itself are taken up for hearing and disposal.

7. On going through the impugned order, we find that on the basis of a show-cause notice issued on 03.12.2020 by DRI to one M/s S.R. Enterprises, the Principal Commissioner initiated action against the Appellant-Customs Broker under CBLR, 2018 and suspended their license on 03.02.2021 and fixed the post decisional hearing in appeal No. C/85226/2021 on 15.02.2021 and in the second appeal No. C/85271/2021 on 25.02.2021. We find that the appellant rushed to this Tribunal filing the present appeals instead of attending the post decisional hearing extended to them. It is the plea of the learned Advocate that even though the appellant requested for certain documents but since the same were not supplied to them, hence, they did not attend the hearing apprehending injustice in the matter. Also, he has grievance about the wording used by the Principal Commissioner in the impugned order directing suspension, which according to him, indicates a biased approach.

8. Opposing the said argument, the learned AR for the Revenue has submitted that the appellant did not make out a case before the Principal Commissioner seeking adjournment of the hearing nor approached the Principal Commissioner for the said purpose. He submits that what all are the documents that have been requested to the office of Principal Commissioner to be supplied before hearing, is also not placed on record. It is his submissions that the Principal Commissioner has allowed another hearing in the matter on 10.03.2021 as the appellant failed to attend earlier. Further, he submits that even though the appellant was aware of the date of hearing but on 09.03.2021, while arguing the matter before this Tribunal, it was not brought to the notice of the Tribunal that the hearing is fixed on 10.03.2021 before the Principal Commissioner.

9. We find that non-appearing before the Principal Commissioner and advancing their grievance of non-supply of documents requested is a serious lapse on part of the appellant as the learned Principal Commissioner has duly and reasonably exercised her authority conferred under CBLR, 2018. Further, the argument that absence of a *prima facie* case for suspension of the license had forced the appellant to rush to this Tribunal, without appearing before the Principal Commissioner seems to be ill founded. We do not see valid reason as to why the Tribunal at this stage should interfere with the suspension order passed by the Principal Commissioner when post decisional hearing was extended to the appellant. Further, we do not find any irregularity in passing the order by the Principal

Commissioner suspending the license and extending post decisional hearing to the appellant thereafter. In these circumstances, it is appropriate to direct the appellant to co-operate by attending the hearing before the Principal Commissioner in compliance with the procedure laid down under CBLR, 2018 and forward their argument/defense.

10. The learned Advocate undertakes to attend the personal hearing and request that the respondent be directed to supply the relevant documents before the next date of hearing. Consequently, we direct the Revenue to supply all relevant documents as requested so far or that would be requested in future and complete the process of hearing as far as practicable within 10 days from the date of communication of this order.

11. Appeals are disposed off accordingly.

(Dictated and pronounced in open court)

(C.J. Mathew)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

Sinha