CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85522 of 2013

(Arising out of Order-in-Appeal No. 616(Adj/Exp)/2012 (JNCH)EXP-68 dated 05.11.2012 passed by the Commissioner of Customs (Appeals), Mumbai-II

Chand Kumar Dawar **.... Appellant**
C-205, Pearl Drop Great Eastern Gardens,
LBS Marg Kanjur Marg,
Mumbai – 400 078

Versus

Commissioner of Customs, **.... Respondent**
Nhava Sheva (Export)
JNCH, Post-Uran,
District Raigad – 400 707

Appearance:

Shri C. K. Darwar, Advocate for the Appellant

Shri Ram Kumar, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85400/2023

Date of Hearing: 15.03.2023

Date of Decision: 15.03.2023

Per: Anil G. Shakkarwar

Appellant has appeared in Person and presented his case. He has submitted that in respect of exporters viz. M/s Megatech International, M/s. Leevon Overseas and three other companies, he presented shipping bills with the Export Department, Nhava Sheva Customs. The Departmental Officers assessed the shipping bill and ordered for examination of goods. In the export shed, he has attended the examination of goods by the Customs Authorities and there was no objection by the Customs Authorities and Let

Export Order was issued and goods were exported. After the goods were exported some investigation, took place and in the absence of goods it was decided that the goods were overvalued and for helping the exporter to received alleged excess drawback, the Appellant was imposed with penalty of Rs. 5,00,000/- (Five Lakhs Rupee only) under the provisions of Section 114(iii), 114AA and 117 of Customs Act, 1962. Aggrieved by the said order, Appellant preferred appeal before the Commissioner (Appeals), who reduced the penalty from Rs. 5,00,000/- (Five Lakhs Rupee only) to Rs. 3,00,000/- (Three Lakhs Rupee only)

2. Heard the Appellant. He has submitted that he is a Custom House Agent (CHA) and authorized to present the documents to Customs Authorities and so far his professional conducts as CHA is concerned, there are no allegations against him. The goods which were attended by him were not objected to be exported and once the let export order is issued, his job as Custom House Agent is over and he is not responsible for any other activity on which he has no control. Therefore, the impugned order may be set-aside.

3. Heard the learned Authorised Representative for the Revenue. He has supported the impugned order.

4. I have carefully gone through records of the case and submissions made. I am not going into the issue whether drawback claim is correct or not or whether the Department’s actions were correct or not. This order is pertaining to the penalties imposed against the present Appellant. From the record, it is very clear that the Appellant had presented the document before the Customs Authorities. He had also attended the examination of goods and goods were allowed to be exported without objection.

Therefore, once the let export order was issued, his role was over. Therefore, I do not find any lapse on part of the Appellant requiring imposition of penalty. Therefore, I set-aside the penalties imposed under various provisions of Customs Act on the Appellant and set-aside the impugned order and allow the appeal.

(Order dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

Sujeet