CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 88037 of 2019

(Arising out of Order-in-Appeal No. MUM-CUSTM-AMP-APP-1273/18-19 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III)

Shri Ramji Pal **.... Appellant**
Ranjana Trading Corporation, Room No. 472, Village
Lavdeha Athaisi Barunsa, Sultanpur, Uttar Pradesh-228120.

Versus

Commissioner of Customs-Mumbai **.... Respondent**
Air Cargo Complex, Sahar, Andheri East, Mumbai-400099.

Appearance:

Shri Stebin Mathew a/w Disha Pandey, Advocate for the Appellant

Shri Ram Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85626/2023

Date of Hearing: 26.04.2023

Date of Decision: 26.04.2023

Per: Anil G. Shakkarwar

Through an earlier order, appeal No. C/88037/2019, C/86986/2019, C/86617/2021 were clubbed together. The appellants in appeal No. C/86986/2019 and C/86617/2021 are repeatedly remaining absent during hearing and therefore through this order the above stated appeals are delinked and presently appeal No. C/88037/2019 alone is being decided.

2. Brief facts of the case are that the appellant was partner of a firm called Ranjana Trading Corporation. The other partner of the said firm was Shri Anand Singh. Shri Anand Singh imported certain

goods in the capacity of partner of Ranjana Trading Corporation on behalf of the Ranjana Trading Corporation and mis-declaration of description of goods was established. The matter was adjudicated by original authority and orders were passed invoking provisions of Customs Act, 1962 against Ranjana Trading Corporation, Shri Anand Singh and the present appellant. Present appellant was imposed with a penalty of Rs. 4 lakhs each under Section 112 (a) and Section 114AA of Customs Act, 1962. Aggrieved by imposition of above stated penalties appellant is before this Tribunal, since the learned Commissioner (Appeals) did not interfere with the same.

3. Heard the learned Counsel for the appellant. He has brought the attention to para 3.8 of the Order-in-Original, wherein it has been stated that Shri Anand Singh has stated on 18.11.2011 that Shri Anand Singh used to book the goods and did the business himself and the present appellant was just a 2% partner in his business. He has further brought the attention to para 17.9 of the Order-in-Original, wherein the original authority has given the finding that bank account of appellant revealed that he has never transacted any business. He further stated that the present appellant and Shri Anand Singh were partners and both the partners have equal right to transact business on behalf of partnership firm Ranjana Trading Corporation. He further submitted that records reveal that the present appellant Ramji Pal was totally unconcerned with the present import and therefore he was not personally responsible for any omission or commission and was not liable for imposition of penalty.

4. Heard the learned AR. He has supported the impugned order.

5. I have carefully gone through the records of the case and submissions made. For imposition of personal penalty, contravention of the provisions of law on by a person is required. The original authority has given the finding that the present appellant has not transacted any business. That itself establishes that the present appellant was not responsible for any omission or commission. Therefore, imposition of personal penalties on the present appellant are untenable. I, therefore, set aside that part of the Order-in- Appeal through which personal penalties of Rs. 4 lakhs each under Sections 112(a) and 114AA of Customs Act, 1962 were imposed on the present appellant. The Order-in-Appeal stands modified to that extent.

6. In above terms, the appeal is allowed.

(Order dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

Sinha