CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 89469 OF 2014

[Arising out of Order-in-Original No: 87/2014/CAC/CC(G)/PKA-CBS dated 18th July 2014 passed by the Commissioner of Customs (General), Mumbai.]

Daroowala Bros & Co
785-A Ready Money Building, Mancherji Joshi Road
Parsi Colony, Dadar (E), Mumbai - 400014 … ***Appellant***

versus

Commissioner of Customs (General)
New Customs House, Ballard Estate, Mumbai - 400001 ***…Respondent***

APPEARANCE:

Shri Rajeev Dinkar Waglay, Advocate for the appellant

Shri Ranjan Kumar, 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: 87523/2024

DATE OF HEARING: 27/06/2024
DATE OF DECISION: 13/12/2024

PER: C J MATHEW

This appeal, arising from forfeiture of security deposit of M/s

Daroowala Bros & Co, as holder of customs broker licence[1], under the authority of regulation 18 of Customs Brokers Licensing Regulations, 2013 in order[2] of Commissioner of Customs (General), Mumbai, pertains to handling of two shipping bills no. 6364937/04.06.2008 and 6364944/04.06.2008 for export of 'floor covering/woolen carpets 80% wool 20% cotton' under claim for drawback.

2. The export of goods by M/s Globlink Overseas were subjected to proceedings under Customs Act, 1962 for mis-declaration of both specifications as well as quantity. The proceedings against the appellant herein were concluded with the forfeiture of security deposit, even after breach of regulation 13(d), 13(e) and 13(n) were held as proved on the finding that

> *'22. I find that three charges for violation of Regulations 13(d), 13(e) & 13(n) have been leveled against the CHA all of which stand proved. I also note that the case against the CHA relates to exports effected in June, 2008, more than six years ago. Taking into account the charges against the CB and lapse of considerable time since occurance of the event, the case does not appear to be grave enough to warrant revocation of the CB's Licence.'*

3. Learned Counsel for the appellant submitted that the entire case has been built on the incorrectness of particulars in the shipping bill filed on behalf of the exporter and that, in those proceedings, the

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[1] [no. 11/693]
[2] [order-in-original no. 87/2014/CAC/CC(G)/PKA-CBS dated 18th July 2014]

adjudicating authority had held the appellant herein to be blemishes. On behalf of the appellant, the adjudication order was placed before us.

4. We have heard Learned Authorized Representative.

5. Considering that the proceedings in which the adjudication process was, ultimately, to clear the appellant had been underway, the appellant herein had requested for deferring the conclusion of the proceedings, now impugned, till the outcome of the adjudication was known which the licensing authority forbore to do with the detriment herein.

6. Considering the altered circumstances of the appellant herein having been relieved of all charges insofar as the proceedings under Customs Act, 1962 was concerned, it would be appropriate to set aside the impugned order and remand the matter back to the licensing authority for a fresh decision.

7. The appeal is allowed by way of remand.

(Order pronounced in the open court on 13/12/2024)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*