IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CUSTOMS APPEAL NO.47 OF 2016

The Principal Commissioner of Customs
(General) .... Appellant
Vs.
Ratnadip Shipping Pvt. Ltd. .... Respondents

WITH
NOTICE OF MOTION NO.1376 OF 2016
IN
CUSTOMS APPEAL NO.47 OF 2016

The Principal Commissioner of Customs
(General) .... Applicant
In the matter between
The Principal Commissioner of Customs
(General) .... Appellant
Vs.
Ratnadip Shipping Pvt. Ltd. .... Respondents

Mr. Pradeep S. Jetly for the Appellant/Applicant.
Mr. Anil Balani for the Respondents.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

**DATE : ** JULY 18, 2016

P.C:

1. This is Revenue's appeal challenging an order of the

Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai, dated 6-8-2015.

2. The Tribunal allows the respondents' appeal in part.

3. Mr. Jetly would submit that this appeal raises substantial questions of law, and particularly those which are framed and formulated by the Revenue.

4. He would submit that this is a serious case of the respondents assisting the importers. The importers have defrauded the Revenue and by winning over the trust and confidence of the concerned officials. These importers achieved this through the respondents/Customs House Agents. Therefore, the Revenue had rightly proceeded against the respondents for lack of due care and utter negligence. These are all intentional and deliberate acts and hence, it cannot be said that the respondents were innocent.

5. We are unable to accept this argument of Mr. Jetly for the simple reason that the appreciation of the oral and documentary evidence on record has been done by the Tribunal.

The Tribunal was dealing with an appeal of the respondents/Agents. That challenged the revocation of their license for breach of Regulation 13(d), 13(e), and 13(n) of the Customs House Agents Licensing Regulations, 2004. The Tribunal found that the charges under Regulation 13(d) and 13(e) cannot be held to be proved. The Tribunal has assigned reasons for arriving at that conclusion. We have been taken through that part of the Tribunal's order, and particularly the reasons in paras 7, 7.1 and 7.2 of the Tribunal's order.

6. We find that once the respondents were not guilty of aiding and abetting the importers, then, the importers' acts may amount to evasion of customs duty, but those can be proceeded independently. As far as the respondents/Agents are concerned, they have not been held to be guilty and of conniving and that of colluding with these importers. Therefore, all that they were pronounced guilty for is some lack of care or supervision. For that the Tribunal has brought down the period of revocation. It has maintained the forfeiture, but to the extent indicated in para 8 of the impugned order. It is not the contention of the Revenue

that the Tribunal was not empowered to do so in law. The argument is, that it should not have done it. We do not think that in our limited jurisdiction we can re-appreciate and reappraise a pure finding of fact. Once that is not demonstrated to be perverse or vitiated by any error of law apparent on the face of the record, then, the appeal cannot be entertained. It is dismissed.

7. In view of dismissal of the appeal, Notice of Motion No.1376 of 2016 does not survive and it accordingly stands disposed of.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C. DHARMADHIKARI, J.)