

judgment and order dated 20 December 2005 passed by the Customs, Excise and Service Tax Appellate Tribunal (for short “*Appellate Tribunal*”). An order was made by the Commissioner of Customs cancelling the Customs House Agent (CHA) licence of the Respondent and of forfeiture of deposit amount of Rs. 25,000/-. The licence was ordered to be cancelled on the ground of contravention of the provisions of Clause (d) of Regulation 14 of the Customs House Agents Licensing Regulation, 1984 (for short “the *said Regulation*”). By the impugned order, the Appellate Tribunal held that cancellation of licence cannot be sustained and therefore, the Appeal preferred by the Respondent was allowed. The Tribunal held that unless the charge against the main person namely the export firm is established, the penalty arising as a consequence of aiding and abetting the main person in defrauding revenue, cannot be sustained.

2. We may note here that as per the order dated 17 January 2007 by which this Appeal was admitted, the same was

required to be heard along with Customs Appeal No. 7 of 2006. When the said Appeal was listed for final hearing, the present appeal was not listed. The said Appeal has been decided¹ on 6 October 2010. The said Appeal was disposed of by cancelling the action of cancellation of CHA licence. However, the order of forfeiture of security deposit in the sum of Rs. 25,000/- was maintained. There is no dispute that this Appeal will be governed by the said decision in Appeal No. 7 of 2006.

3. Accordingly, we dispose of the Appeal by passing the following order :-

- (i) The impugned judgment and order is partly confirmed. The order setting aside the cancellation of CHA licence is hereby confirmed. However, the impugned order to the extent to which it sets aside the order of forfeiture of the sum of Rs. 25,000/- is hereby set aside and the order directing forfeiture of the security deposit of Rs. 25,000/- is restored;

¹ 2011(263) E.L.T. 353 (Bom.)

(ii) We grant time of three weeks from the date on which this order is uploaded to the Respondent to furnish fresh security deposit in accordance with law;

(iii) The Appeal is partly allowed in above terms.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]