

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CUSTOMS APPEAL NO. 5 OF 2017

M/s. K. D. Thakkar	}	Appellant
versus		
The Commissioner of Customs	}	Respondent

Mr. Vinay Ansurkar i/b. Ms. Trupti
Agarwal.

**CORAM :- S. C. DHARMADHIKARI &
PRAKASH. D. NAIK, JJ.**

DATED :- MARCH 12, 2018

P.C. :-

1. We have heard the learned advocate appearing for the appellant and perused, with his assistance, the order under appeal. We are of the firm opinion that the concurrent findings of fact rendered throughout do not require any interference. They are consistent with the materials placed on record and we cannot re-appreciate and reappraise the same material to arrive at a different finding. There is, thus, no perversity or any error of law apparent on the face of the record.

2. The argument of the appellant that he was innocent and had no knowledge of the activity involved is without any merit. The tribunal, in para 4 of the order under appeal, has held as under:-

“I have carefully considered the submissions made by both the sides. The fact is not under dispute that there was an attempt to illegally export red sanders. The export documents showing the exporters name as M/s. Panchaganngaa Aagro Tech Pvt. Ltd. were found forged. The CHA firm and its employee who are the present appellants have not obtained any authorization and they were not aware about the details of M/s. Panchaganngaa Aagro Tech Pvt. Ltd. Shri Bapurao Jagdale has not got the documents from any authentic person. He received the documents from one Shri Nitin Kaginkar, who was initially introduced as Shri Yogesh Jadhav. Shri Nitin Kaginkar acted as of intermediary who was given the documents by one Shri Pillai and assigned the job on payment of Rs.50,000/- per container. In the over all *modus operandi*, the CHA and its employee intentionally did not follow the regulation and dealt with unscrupulous person for handling the export container of red sanders. Therefore in my considered view the offence on the part of both the appellants have been clearly proved. Both the appellants were acted as conduit for enabling the smuggling of red sanders for illegal export. I do not find any infirmity in the impugned order which upheld the imposition of penalty ordered by the adjudicating authority. The appeals are dismissed. Cross-objection also stands disposed of accordingly.”

3. We do not think that in the above circumstances, the appellant can contend that there was no *mens rea* nor was he in any manner involved in the activity of illegal export of red sanders. The order under appeal requires no interference. The appeal is dismissed as no substantial question of law arises from the same.

(PRAKASH.D.NAIK, J.)

(S.C.DHARMADHIKARI, J.)