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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 192/2018, CM APPL. 35979-35980/2018

ANIL CHAND PROPRIETOR M/S CHAND INTERNATIONAL
..... Appellant
Through: Ms. Vidhushi Shubham, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (PREVENTIVE)
..... Respondent
Through: Mr. Harpreet Singh, Sr. Standing Counsel

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **05.09.2018**

The question of law urged by the appellant/CHA holder is that the penalty of ₹5 lakhs imposed upon him for the alleged contravention of provisions of Section 112(a) of the Customs Act, is erroneous.

The appellant/CHA at the behest of one Mr. Deepak Yadav had filed a Bill of Entry on behalf of M/s. Bharat Medical Device Pvt. Ltd. Upon information and inspection, the articles imported were found to be misdeclared. The ensuing proceedings resulted in a show cause notice proposing penal action besides forfeiture of the CHA licence. The appellant's defence was that he acted innocently without knowledge about the mis-declaration. He claimed that M/s. Bharat Medical Device Pvt. Ltd. was listed in the official website and had

DGFT approval and was also an income tax payer. During the proceedings, it was discerned that M/s. Bharat Medical Devices Pvt. Ltd, the importer, had in fact not authorized the import of the goods; the documents relied upon by the CHA holder turned out to be forged. Initially, the CHA holder/G-card holder Mr. Ravindra Singh faced penalty besides forfeiture of the licence. Later, the licence was restored and the penalty– imposed vide the order-in-original to the tune of ₹10 lakhs reduced by the CESTAT to ₹5 lakhs, against which, both the parties appealed.

This Court has considered the overall circumstances of the case. The appellant had relied upon the authorization letter shown to him, which was produced in the proceedings. A plain look at the authorization letter creates suspicion in as much as apart from the address, no other detail (telephone number or any other connection with the proprietor or director of that concern) is shown.

Having regard to these circumstances, the Court is of the opinion that this exercise of discretion by the CESTAT in reducing the penalty amount to ₹5 lakhs – down from the initial amount of ₹10 lakhs, was not unreasonable. No question of law arises.

The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

SEPTEMBER 05, 2018/akv

A. K. CHAWLA, J