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

+ CUSAA 201/2018 AND CM APPL. 37605/2018, 37606/2018 &
37607/2018

VIKAS YADAV

..... Appellant

Through: Mr. Faraz Anees and Mr. Virender
Kumar, Advocates.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (PREVENTIVE)

..... Respondent

Through: Mr. Harpreet Singh, Sr. Standing
Counsel with Ms. Suhani Mathur,
Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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14.09.2018

The question of law urged by the appellant is that ₹5 lakhs imposed for contravention of Section 112(a) of the Customs Act (the modified demand) by CESTAT in the circumstances was unjustified.

It was urged on behalf of the appellant that the CHA concerned at the behest of one Deepak Sharma filed a bill of entry on behalf of M/s Bharat Medical Devices Pvt. Ltd. It was later discovered that the documents were forged and the goods imported mis-declared. Ensuing proceedings resulted in the forfeiture of the CHA's license. The appellant had introduced the individual i.e. Deepak Sharma, to the CHA concerned. The Commissioner in an elaborate order imposed a liability on the appellant as he actively facilitated the fraud, resulting in imposing of penalty to the tune of ₹10 lakhs. CESTAT

quoted the relevant order in original and after analysing the statement, was of the opinion that the quantum (penalty imposed) was not warranted and halved it to ₹5 Lakhs. The appellant questions it.

It is urged on behalf of the appellant that the statement made under Section 108 of the Customs Act relied upon by the Commissioner was the only basis for fastening the liability. It is urged that if there was fraud by CHA, the appellant/facilitator cannot be held responsible. Learned Counsel contended that the appellant was not even registered CHA but merely a facilitator.

The record discloses that the appellant admitted that he did not even examine the basic record such as the existence or otherwise of authorization letter. He concededly helped the clearance of identical consignments in the past of the same party. Given these conspectuses of circumstance, the submissions made on his behalf that he was merely a facilitator and working outside the margin of law as it was, cannot be accepted.

Having regard to these facts, the concurrent findings of the lower authorities do not call for any interference. No question of law arises. The appeal is dismissed. All the pending applications also stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

SEPTEMBER 14, 2018/rc