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

\+ CUSAA 155/2018, C.M. APPL. No. 27529/2018

ASHOK GUPTA & ORS.

..... Appellant

Through: Mr. Madhumita Bhattacharjee, Mr. Atanu Saikia, Mr. Sandip, Advocates

versus

COMISSIONER OF CUSTOMS (IMPORTR & GENERAL)

..... Respondent

Through: Mr. Sanjeev Narula, Mr. Abhishek Ghai, Advocates

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

<u>O R D E R</u>

% **16.07.2018**

In this appeal under Section 130 of the Customs Act, 1962 (hereafter "Customs Act"), the appellants challenge the final order dated 18.08.2017 passed by the Customs Excise Service Tax Appellate Tribunal (hereafter "CESTAT").

Acting upon the information, the Customs Authorities carried out search and seizure proceedings in the premises of M/s Alliance Strategies Limited. The search yielded certain incriminating material in the form of official rubber seals as well as WPC Import Licence, which were ostensibly being used by Department of Telecommunication (hereafter "DoT"). The DoT confirmed that these documents were not issued by it. The verification report revealed that the WPC Import Licenses of *M/s Hughes Communications India Ltd* and *M/s Hughes Network Systems India Ltd*. for purchase of telecom equipment were not issued by the DoT. This led to investigation proceedings under the Customs Act. The order in original, which confirmed the earlier show cause notice, rested on the material in the form of DoT's documents as well as the other evidence such as the statements of certain individuals, i.e., Shri Jaspal Singh Chaudhary, Ms. Anuradha Dewan, Mr. Sanjay Sachdeva. Learned counsel for the appellants submitted that the statements made by them were under duress. These statements implicated M/s Alliance Strategies Limited and its Directors i.e. the present appellants. Based upon the analysis and decision of such evidence, the Commissioner confirmed the admissions and imposed various penalties under Section 112 and 114AA of the Customs Act. This was the subject matter of appeals, which were rejected by the CESTAT.

The appellants contend that no role could be attributed to them with respect to the alleged forgery and the fact that the import licences were forged need not to be proved. Emphasising that the appellants were denied proper opportunity, the learned counsel highlighted his previous writ petition, which culminated in to a direction to the respondent to furnish him copies of documents, which were not complied with. Besides, it is also urged that no Forensic Science Laboratory Report, established the fact that forged licences were used, and/or the appellants had any role in that regard. Rather, the entire effort of the revenue was to establish the appellants' guilt or role based upon adverse statement recorded by few ex-employees.

This court has considered the submissions. The findings on the record with respect to the WPC Licence is categorical; the DoT after verification, confirmed that indeed they have not been issued by it.

The premises of M/s. Alliance Strategies Limited yielded – during search – rubber stamps, which were apparently used to create documents. These forged documents found their way to other vendors, who purchased the equipments and exported them. The version of the employees was that forgery did take place in whatever way, was done at the behest of the superior officers. If any grievance was of the appellants with respect to their role, it was open to them to disclose on the basis of the material either existing or sourced in the course of proceedings from the DoT that the documents were not forged. Their explanation that *M/s. Alliance Strategies Limited* was a mere facilitator, in these circumstances was suspect. As far as the issue as to whether the forgeries were carried on by the appellants or at their behest or they had no role would concern, that is the subject matter of criminal proceedings; to which this court would not like to comment on them, as it may cause prejudice to the appellants.

In view of the clear findings, apparently recorded, which cannot be faulted, giving the available evidence, this court is of the opinion that no question of law arises in the present petition. Therefore, the appeal filed by the appellants is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 16, 2018
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