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

\+ CUSAA 69/2024

M/S FREIGHT LOGISTICS .....Appellant

Through: Dr. Prabhat Kumar, Mr. Karan Kanwal, Advocates with Mr. Manish Sharma, Partner of appellant firm.

versus

COMMISSIONER OF CUSTOMS (AIRPORT AND GENERAL) .....Respondent

Through: Ms. Anushree Narain, SSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **23.08.2024**

CM APPL. 48421/2024 (for exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM APPL. 48422/2024 (11 days delay)

Bearing in mind the disclosures made in the application, the delay of 11 days in filing the appeal is condoned.

Application stands disposed of.

CUSAA 69/2024

1. This appeal is directed against the order of the Customs, Excise and Service Tax Appellate Tribunal [‘**Tribunal**’] insofar as it affirms the imposition of penalty at INR 50,000/-. We take note of the following conclusions which have ultimately come to be rendered by the Tribunal:-

> "14. There appears to be no doubt that fraud has been committed by manipulating the documents to enable the illegal export of prohibited goods but there is no evidence to say that the appellant connived or was aware of the modus-operandi. However, we cannot ignore that by virtue of a license granted under the Regulations, a customs broker is eligible and entitle to carry on the work of clearance of goods for import and export. As laid down in various decisions, CHA occupies a very important position in the Customs House. He is supposed to safeguard the interests of both the importers and the Customs and therefore a lot of trust is kept in CHA by the importers or exporters as well as by the Government Agencies, Noble Agency Vs. Commissioner of Customs, Mumbai 2002 (142) ELT 84. Therefore, the appellant when he admits that he did not verify the address of the exporting company as they were in Amritsar and also did not raise any query for non production of the authorization from the exporter company had violated the obligations cast on a customs broker under the Regulations. Considering the extent of violation that can be attributed to the appellant and the fact noted by the Commissioner that active role was played by Shri Kumod Kumar Chaudhary, employee of the CB and role of CB has not come out anywhere in the investigation as also CB has taken immediate action against the employee, we feel that applying the doctrine of proportionality the forfeiture of security deposit is far beyond proportion and imposition of penalty of Rs. 50,000/- is sufficient. We therefore modify the impugned order to the extent that forfeiture of the security deposit needs to be set aside and only the order whereby the penalty has been imposed is affirmed. We therefore, partly allow the appeal filed by the appellant, customs broker as referred above."

2. From the aforesaid, it is evident that although no individual or personal wrongdoing was found to be established insofar as the appellant is concerned, undisputedly the infractions had been committed by its employees. It is in the aforesaid backdrop that the Tribunal has taken the view that the Custom Broker cannot claim a complete absolution from the violations which had been found to be committed. It has accordingly and bearing in mind the principles of proportionality restricted the penal action to the imposition of a penalty of INR 50,000/- only.

3. Bearing in mind the aforesaid, we find that the appeal fails to raise any substantial question of law. It shall stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

AUGUST 23, 2024/*vp*