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

\+ CUSAA 8/2024, CM APPL. 6592/2024 & CM APPL. 6594/2024

NAWAL KISHORE SINGH .....Appellant
Through: Ms. Reena Rawat, Advocate

versus

COMMISSIONER OF CUSTOMS (EXPORT) .....Respondent
Through: Mr. R. Ramachandran, SSC

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 18.03.2026

1. Heard.

2. *Vide* final order dated 10th August, 2018, the Customs, Excise & Service Tax Appellate Tribunal ('***CESTAT***') has allowed the Customs Appeal No.C/50474/2018 titled ***Bhupinder Singh v. C C-New Delhi ICD TKD Export***.

3. The said appeal was against the order, whereby penalty was imposed on *Bhupinder Singh*, a Custom House Agent in exercise of powers under Sections 112(a) and 114AA of the Customs Act, 1962 to the tune of Rs. 3 crores. The *CESTAT* while dealing with the case of Bhupinder Singh has held that there were phone calls in between Deepak Kumar Rishi and Nawal Kishore Singh, *i.e.*, present appellant, which were for a period from 29th September, 2011 till 30th October, 2011. In the wake of the export being of 27th October 2011, the *CESTAT* further held that even if the said appellant

therein, namely, Bhupinder Singh was having knowledge of the import of the impugned goods, that by itself, he being a Custom House Agent and whose licence was suspended, cannot be held liable for payment of penalty. The *CESTAT* further held that there is no evidence against the said appellant to justify the imposing of penalty under the said provision and as such, allowed appeal.

4. As regard the present appellant is concerned, the order speaks of the appellant being admittedly an employee of said Bhupinder Singh who was exonerated.

5. In so far as the material available against the appellant, as discussed in the order impugned, the *CESTAT* held that the benefit granted to Bhupinder Singh, the employer of the present appellant cannot be treated at par with that of the present appellant. The fact remains that the *CESTAT* has not discussed any evidence in the matter as to why the appellant is being implicated though he was admittedly styled as an employee of Bhupinder Singh in relation to whom the order of saddling penalty was already set aside.

6. Though the *CESTAT* has recorded a finding that the appellant was an employee of the Bhupinder Singh who was exonerated of the liability, the only material to connect the appellant was that he has acted in connivance with Deepak Rishi and Bhupinder Singh. Based on very same set of evidence, Bhupinder Singh was exonerated and we failed to understand what prompted the *CESTAT* to proceed against the appellant thereby maintaining the penalty.

7. When confronted, the counsel for the respondent is unable to justify the order impugned based on the material available on record.

8. In the capacity of an employee even if the appellant has acted in the matter of assisting the export, the same act was pursuant to his status as that of employee of Bhupinder Singh and once the employer Bhupinder Singh has been exonerated, we see no reason to maintain the order against the appellant.

9. As far as the order passed in favour of Bhupinder Singh exonerating him from the payment of penalty is concerned, the respondent has not questioned the same till this date and as the said order has attained finality, there is no impediment in the claim of appellant claiming similar relief.

10. That being so, the present appeal stands allowed in terms of prayer clause ‘a’ and ‘b’.

11. Pending applications stand disposed of accordingly.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

MARCH 18, 2026/*pr/ok*