

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
HYDERABAD**

**REGIONAL BENCH**

**Customs Appeal No. 30240 of 2023**

(Arising out of Order-in-Appeal No. VJD-CUSTOM-000-APP-073-2022-23 dated 02.02.2023  
passed by Commissioner of Central Tax & Customs (Appeals) Guntur)

**Sriram Srinivasa Rao,**

(Prop M/s S.S. Freight Forwarders),  
H.No. 109/2RT, PrakashNagar, Begumpet,  
Hyderabad-500106,

**...Appellant**

**Verses**

**The Commissioner of Central Tax &  
Customs (Appeals),**

D.No. 3-30-15, Ring Road,  
Guntur-522006

**...Respondent**

**APPEARANCE:**

Mr Srinivasa Chaturvedula, Adv for the appellant  
Mr A. Rangadham, A.R. for the Respondent

**CORAM:**

**HON'BLE MR R. MURALIDHAR, MEMBER(JUDICIAL)**

**FINAL ORDER NO. 30257 /2023**

**Date of Hearing: 15.09.2023**

**Date of decision: 15.09.2023**

**PER R. MURALIDHAR**

The appellant is before the Tribunal being aggrieved by the penalty of Rs 1,00,000/- imposed on him under section 117 of the Customs Act 1962. The Learned counsel submits that the import of the consignment was by M/s Konaseema Exim Traders. The Bill of Entry was assessed to customs duty of Rs 5,35,000/-. The present appellant Shri Sriram Srinivasa Rao was requested by one of his friend, Mr. Rajesh, to make the payment of this amount. The appellant received Rs 5,34,215/- on 8/3/2019 through online mode and after this amount was received, he has discharged the Customs Duty in respect of self assessed Bill-of-Entry.

2. The learned counsel for the appellant submits that when subsequently the imported consignment was opened and other contraband goods were

found inside, the present appellant was in no way connected to them. He points out to para 44 of the order-in-original, wherein the Adjudicating Authority has given a finding that the appellant has made the customs duty payment which was not required to be made by him at all. Therefore, he submits that since no role is found to have been played by the appellant, the impugned order should be set aside.

3. Learned A.R. submits that after the self assessed Bill of Entry was presented along with payment of relevant customs duty, the investigating officials opened the consignment and found that it contained cigarettes valued at Rs. 2,88,00,000/-. He submits that the present appellant cannot plead that he has absolutely no role in this entire process. He justifies the confirmed penalty on the appellant.

4. In the rejoinder, Learned Advocate submits that the penalty under Section 117 can be imposed only when there has been any contravention of the provisions of the Customs Act. Since no specific contravention has been brought out against the appellant, the penalty imposed under section 117 is required to be set aside.

5. Heard both sides. Perused the documents.

6. As could be seen from the factual matrix given above, the appellant was not in any way concerned with the import of the consignment. The investigation also did not bring in any evidence to the effect that the present appellant has colluded in the transaction. However, it is a case of gross negligence on the part of the appellant. Self assessed Bill of Entry can be put up before the customs officials only after the Customs Duty is paid, which in this case has been done by the appellant, which was not required to be paid by him. Had he not made the payment, the self assessed Bill of Entry would not have been presented to the customs officials for final clearance of the imported consignment. Therefore, we do not agree that there was absolutely no contravention of any provision by the appellant. Contravention does not mean that it has to be directly done by the concerned person. Even when he

takes up an act which results in contravention by the importer, still he would be liable for penalty under section 117. However, considering the fact that this is more in the nature of gross negligence rather than on account of any collusion in the contravention, I reduce the penalty of Rs 1,00,000/- to Rs 20,000/-. Appeal disposed of accordingly.

(Order pronounced and dictated in open court)

**(R. MURALIDHAR)**  
**MEMBER (JUDICIAL)**

Neela Reddy