(2014) 04 CESTAT CK 0005

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Appeal No. 80 Of 2009

?CC, New Delhi — APPELLANT

Vs

M/s. DHL Express (India) Pvt. Ltd. — RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Courier Imports And Exports (Clearance) Regulations, 1998 — Regulation 13(a), 14

Citation : (2014) 04 CESTAT CK 0005

Hon'ble Judges : D.N. Panda, J;Manmohan Singh, Technical Member

Bench : Division Bench

Advocate : Rakesh Puri, Kumar Akarshan

Final Decision : Allowed

Judgement

1. Revenue is in appeal against waiver of penalty imposed on the respondent courier who was instrumental for mis-declaration of contents inside

consignment. While the documents were passed through X-Ray, packet bearing AWA No.7390219130 was found to be suspicious and on detailed

examination, Toxic Gas Detection Instrument, Gas Alert Microchip etc. were found (page 10 of appeal folder). Goods so imported did not find place in

the manifest.

2. It was submitted by the respondent before authority below that no misdeclaration was committed by the respondent courier. Only it has filed

document before Customs.

3. We are surprised how courier makes plea of innocence. Regulation 13(a) of Courier Imports and Exports (Clearance) Regulations, 1998 has casted

responsibility on the courier as an agent of consignor/consignee as the case may be. Once courier becomes an agent, he acts on behalf of principal and what that is done by the principal makes agent liable if the agent is not conscious of his duty. The courier is therefore answerable under law for

any omission or commission done at the Customs station as well as for breach of duty under law. We are also surprised to know how the

Commissioner (Appeals) found the courier respondent to be innocent when the respondent has failed to enquire the contents of consignment and

whether that was lawfully declared.

4. Considering totality of facts and circumstances, imposition of penalty of Rs.1 lakh shall be justified in the fitness of circumstances of the case. Such

dose of penalty is preventive measure to deter recurrence of mischief. We do not even hesitate to say that the breach of duty of aforesaid nature

requires action of the Commissioner under Regulation 14 of 1998. There should be no leniency for deviation to the law at the customs station. In view

of aforesaid observation, Revenueâ??s appeal is allowed to the extent indicated above.

(Dictated & pronounced in the open court)

