The Commissioner of Customs and Central Excise, Vs M/S. H.B. Cargo Services,

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Court : Andhra Pradesh

Decided On : Mar-30-2011

Judge : V.V.S.Rao ; Ramesh. Jj.

Acts : The Customs Act, 1962, - Sections 130,108,114, 130,

Appeal No. : CEA No.325 of 2010

Appellant : The Commissioner of Customs and Central Excise,

Respondent : M/S. H.B. Cargo Services,

Judgement :

1.This appeal, under Section 130 of the Customs Act, 1962, is preferred against Order No.470/2010 in Customs Appeal No.357/2009 on the file of the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore (CESTAT) dated 17.2.2010 whereby the order of the Commissioner of Customs and Central Excise, Hyderabad dated 12.12.2008, revoking the CHA licence issued to the respondent under Regulation 20 of the Custom House Agent Licensing Regulations, 2004 (CHALR), was vacated.

2.The respondent herein was authorized to transact business as a Customs House Agent (CHA) vide License No.02/2002 with effect from 6.6.2002. The partner and authorized signatory of the CHA submitted four shipping bills, (No.2952 to 2955 dated 17.3.2004), on behalf of M/s. Globle Fashions (Exim) India, Goa at the ICD, Hyderabad for export of goods declared as "Ladies Nightwear" valued at Rs.1,15,96,832/- (FOB). On the basis of these four shipping bills M/s Globle Fashions claimed DEPB credit at 11% of the FOB value. On examination of the export consignment, the description and the value of the goods were found to have been misdeclared with a view to claim DEPB credit by fraudulent means. Sri C.N. Rajendra Kumar a partner of the respondent, in his statement under Section 108 of the Customs Act dated 27.3.2004, admitted to have given ten duly signed blank shipping bills to M/s Trans-Asia Shipping, receiving Rs.150/- as service charges for each such shipping bill; the exporters were not known to him; and, while witnessing examination of the export cargo on 27.03.2004, he was surprised to find that there was gross mis-declaration in the description of the goods. Subsequently Sri C.N.Rajendra Kumar, by fax dated 13.4.2004, retracted his earlier statement dated 27.3.2004 contending that he had given the statement in a state of confusion; he was under mental tension and was suffering from ill-health. The Commissioner of Customs, vide letter dated 19.4.2004, rejected the retraction holding that it was belated and was an after thought. As there was reason to believe that the respondent had failed to comply with their obligations under Regulation 13 of the CHALR, the license issued to them was suspended on 08.04.2004 in terms of Regulation 20(2) of the CHALR. Aggrieved thereby, the respondent preferred an appeal which was rejected by the CESTAT by its order dated 17.2.2010. The case of fraudulent export/mis-use of DEPB scheme by the exporter was adjudicated by the Commissioner of Customs on 4.7.2005 in OR.No.24/2004-Adj.Cus(O-i-O) No.19/2005 -adjn-cus wherein Sri C.N. Rajendra Kumar, partner of the respondent was imposed a penalty of Rs.25,000/-. In the meanwhile, notice dated 3.11.2004 was issued by the Commissioner of Customs, Hyderabad to the respondent directing him to show cause why the CHA licence should not be revoked under Regulation 22 of the CHALR for their alleged involvement in the fraudulent export which rendered them unfit to transact business as a CHA in the Customs Station. In his reply dated 13.1.2005, Sri C.N. Rajendra Kumar submitted that the value of the goods declared was on the basis of ARE-I, and the instructions of the exporter; and he was not aware that the goods were misdeclared. A personal hearing was afforded to the respondent on 22.3.2006 wherein Sri C.N.Rajendra Kumar admitted being aware that, as stipulated under Regulation 13(b) of the CHALR, customs clearance should be transacted either directly or through any employee authorized by the Customs for that purpose; he had sold ten, including the subject four, blank shipping bills duly signed by him to M/s Trans-Asia Shipping Services; during his 15 years service as a CHA this was the first time a show cause notice was issued to him; the exporter in this case had not contacted him at any time, and noauthorization had been received by anybody in respect of the attempted export; and, other than Rs.150/- per shipping bill, he had received no other financial benefit in respect of these consignments. He requested that the lapse be condoned, and a lenient view be taken.

3.In his report dated 29.3.2006 the enquiry officer held that, inspite of his being in the field for more than a decade, Sri C.N. Rajendra Kumar had signed blank shipping bills without even knowing the exporter or his whereabouts, and the nature of the goods attempted to be exported; had this mis- declaration of description and value of the export goods not been directed by the Customs Department, the exporter would have claimed a huge amount as DEPB credit though he was ineligible thereto; and the reckless and irresponsible behaviour of Sri C.N. Rajendra Kumar, in the discharge of his functions as a CHA, was proved. A copy of the enquiry report was furnished to the respondent and, at his request, a personal hearing was afforded. During the personal hearing, Sri C.N. Rajendra Kumar again admitted to have signed the blank shipping bills in good faith; he was not aware that the consignments, coveredunder the shipping bills signed by him, were not garments; he came to know that the shipping bills signed by him were misused only when he was called by the DRI for verification; and, in view of his clean record for the last 18 years, a lenient view be taken.

4.In his order dated 12.12.2008, the Commissioner held that Sri C.N. Rajendra Kumar, partner and authorized signatory of the respondent, had signed blank shipping bills without even knowing who the exporter was, and the nature of the goods to be exported; he had admitted that the description and value of the export consignment were misdeclared; CHALR required the CHA not to act as an agent for the illegal activities of persons who avail his services; Regulation 13 required the CHA to obtain authorization from each of the companies, firms or individuals who employed him, and produce such authorization whenever required by the Assistant Commissioner; he was requested to transact business in the customs station either personally or through an employee duly approved by the Assistant Commissioner; he was required to advise his client to comply with the provisions of the CHALR and, in case of non-compliance, to bring the matter to the notice of the Assistant Commissioner; and to ensure that all documents, prepared or presented by him, or on his behalf, were in accordance with CHALR. The Commissioner held that Sri C.N. Rajendra Kumar had not exercised adequate caution/diligence while signing blank shipping bills without even knowing the exporter, or the nature of the goods proposed to be exported; his careless and irresponsible behaviour, in the course of discharge of his functions as a CHA, had been proved beyond doubt; and they had failed to comply with the provisions of Regulation 13 of CHALR rendering themselves unfit to continue operations as a CHA in the customs station. In exercise of his powers, under Regulation 20 of the CHALR, the Commissioner revoked the CHA licence of the respondent. He also ordered that the security furnished by the CHA, in FDR dated 23.5.2002 at thetime of grant of regular CHA licence, be forfeited in terms of Regulation 20 of the CHALR.

5.Aggrieved thereby, the respondent carried the matter in appeal to the CESTAT, Bangalore in Appeal No.Customs/ 357/2009. In its order dated 31.2.2009 the CESTAT held that it was established that Sri C.N. Rajendra Kumar, partner of the respondent, had sold 10 signed blank shipping bills to M/s Trans Asia Shipping for a consideration of Rs.150/- per shipping bill; while a heavy penalty of Rs.15.00 lakhs was imposed on the exporter under Section 114 of the Act, the Commissioner had imposed a low penalty of Rs.25,000/- for the role of the CHA in attempting to abet illicit export; the complicity of the respondent - CHA in the fraud was not established; they had neither paid the penalty nor had they filed an appeal against the order of penalty owing to their penury; the CHA had an unblemished record; the export consignment was presented in sealed containers stuffed at the factory premises of the manufacturer under the supervision of central excise officers; even if the exporter had engaged any other CHA, for entering the impugned consignment for export, the CHA would have filed the shipping bills with the description and value following the details mentioned in the accompanying ARE-2s; that the exporter had used the signed bills which were found to have been sold for a consideration by the respondent made no difference to the subsequent events that unfolded; goods arriving at the customs station in sealed containers, were not usually subjected to examination before export; examination and detection of the infractions was on account of specific intelligence received by the investigating agency; the conclusion of the enquiry officer, as regards the respondent's contribution to the attempted fraud, did not appear to be correct; to that extent the impugned order was based on an incorrect report; the CHA had an unblemished record, and was in impecunious circumstances following suspension of their licence in 2004; there was no finding, in the order under Section 114, of any fraudulent conduct on their part in the transaction; the only finding recorded was of negligence on their part; in the normal course also any CHA, engaged by the exporter, would have filed shipping bills as were presented in the instant case; and the inference drawn by enquiry office that the transactions, detected by the authorities, could have been avoided had the respondent not handed over blank signed shipping bills to the exporter was incorrect. By the order, impugned in this writ petition, the order revoking the CHA licence was vacated.

6.Sri Gopala Krishna Gokhale, Learned Senior Standing Counsel for Central Excise and Customs, would submit that the respondent, having admitted to have sold 10 blank shipping bills for a consideration of Rs.150/- per shipping bill, ought not to have been let off by the CESTAT; it is evident from the order of the Commissioner that the shipping bills had been misused resulting in attempted fraudulent export of goods which, but for the timely intervention of the intelligene authorities, would have left Indian shores thereby enabling the fraudulent exporter to claim DEPB credit at 11% of the FOB value; while the goods sought to be exported were declared as "ladies night wear", it was found to be rags and cheap clothes; the respondent, having issued blank shipping bills, cannot claim to be absolved of his role in the offence; Regulation 13 requires a CHA to obtain authorisation from each exporter who had employed him as a CHA, and produce the authorisation whenever required; it also required them to exercise due diligence; and failure of the respondent to exercise adequate caution/diligence, in signing the blank shipping bills, without even knowing the exporter of the goods, revealed carelessness and irresponsible behaviour in the discharge of functions as a CHA; they had rendered themselves unfit to continue to operate as a CHA in the customs station; while the Commissioner had rightly revoked the respondent's licence, the order of CESTAT in absolving the respondent of all guilt, and in vacating the order of revocation of license, was illegal. He would place reliance on the judgment of the Bombay High Court in Commissioner of Customs v. Worldwide Cargo Movers1; the Madras High Court in Sri Kamakshi Agency v. Commissioner of Customs, Madras2; and the Supreme Court in Kamakshi Agency v. Commissioner3.

7.Sri C. Kodandaram, Learned Senior Counsel appearing on behalf of the respondent, would submit that no substantial question of law arises necessitating interference by this Court under Section 130 of the Customs Act; the CESTAT is an expert body; the corum consists of not only a judicial member but also a technical member both of whom are well versed in the relevant rules and regulations; the CESTAT had found that there was no fraudulent conduct on the part of the respondent in the transaction, and they had only been negligent; the CESTAT had also noted that, since the mis-declared goods were in sealed containers, the respondent could not have been aware that the goods had been mis-declared, even if he had not sold blank shipping bills but had, instead, filed shipping bills containing all particulars; shipping bills were prepared by the CHA on the basis of ARE II Form which contains the description and value of the goods sought to be exported; and, using of signed shipping bills, would not have made any difference to the subsequent events that unfolded. Learned Senior Counsel would rely on Falcon Air Cargo & Travel (P) Ltd. v. UOI4 and Chairman- Managing Director, Coal India Limited v. Mukul Kumar Choudhuri5.

8.Facts, and events, not in dispute are that the respondent, which was granted a license as a CHA with effect from 06.06.2002, submitted four shipping bills under the signature of its partner and authorized signatory, at the ICD, Hyderabad, on behalf of M/s Globle Fashions (Exim) India, for export of goods declared as "Ladies Nightwear" valued at Rs.1,15,96,832/- (FOB). M/s Globle Fashions (Exim) India claimed DEPB credit at 11% of the FOB value on the basis of these four shipping bills. On examination, it came to light that the goods sought to be exported were not "Ladies Nightwear" but mere rags and cheap clothes; and the export consignment was mis-declared with a view to claim DEPB credit by fraudulent means. Sri C.N. Rajendra Kumar, the partner and authorized signatory of the respondent in his statement dated 27.03.2004, given under Section 108 of the Customs Act, admitted that the exporters were not known to him, and he had given ten blank shipping bills duly signed by him to M/s. Trans- Asia Shipping, receiving Rs.150/- as service charges for each such shipping bill. Proceedings were initiated against the respondent and others under Section 114 of the Customs Act for improper export of goods. While the exporter was imposed a penalty of Rs.15,00,000/-, the respondent was imposed a penalty of Rs.25,000/- for their role in attempting to abet the illicit export. The order of penalty, imposed under Section 114 of the Customs Act, has attained finality in so far as the respondent herein is concerned. The respondent's guilt in abetting improper export of goods is established not only by the proceedings under Section 114 of the Customs Act having attained finality, but also by the confession of its partner and authorized signatory, which statement has been accepted as true both by the Commissioner of Customs and the CESTAT. By selling blank shipping bills or bills of entry, the CHA had belied the trust imposed on him by the department; and it enabled an unscrupulous member of the trade to exploit the confidence which a CHA enjoyed with the departmental authorities.

9.The CESTAT has not differed with the findings of the Commissioner that the respondent had signed blank shipping bills for a consideration of Rs.150/- per shipping bill, and such shipping bills were used in the attempted fraudulent export of rags and cheap clothes mis-declaring them as "ladies night wear", and their value as Rs.1,15,96,832/-. The CESTAT also acknowledges that the respondent-CHA was imposed a penalty of Rs.25,000/- under Section 114 of the Customs Act, which order has attained finality. The conclusion of the CESTAT, that no different consequences would have ensued even if the shipping bills had been filled up and signed by the respondent-CHA, is wholly irrelevant and is more in the nature of surmises and conjectures. We called for a proforma of the shipping bill for export of duty free goods. The said proforma requires the CHA to furnish details of the description of the goods, its quantity, its FOB value, the kind of packages, container numbers, net weight, gross weight etc. It also requires the CHA to give a declaration that the particulars given in the shipping bill are true and correct. It is evident, therefrom, that the CHA is required to ensure that the particulars which they enter in the shipping bill are true and correct. As the Commissioner of Customs has observed, in his order dated 12.12.2008, the position which the CHA holds is one of trust, and the regulations require the CHA to be ever vigilant and to act in accordance with law. By their act of signing blank shipping bills, the CHA enabled M/s Globle Fashions (Exim) India to attempt export of rags and cheap clothes mis-declaring them as "Ladies Nightwear" for a value of Rs.1,15,96,832/-. But for the vigilance of the Revenue Intelligence these misdeclared goods would have left Indian shores enabling M/s Globle Fashions (Exim) India to fraudulently claim DEPB credit running into several lakhs.

10. While issuance of signed blank shipping bills would, by itself, amount to negligence on the part of the CHA, their doing so for a consideration of Rs.150/- per shipping bill is an act of corruption. It is in this context that the proportionality of punishment imposed on the respondent, and the scope and amplitude of this doctrine, is required to be examined. "Proportionality" is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality places in focus the true nature of the exercise-the elaboration of a rule of permissible priorities. "Proportionality" involves "balancing test" and "necessity test". While the former (balancing test) permits scrutiny of excessive onerous penalties or infringement of rights or interests, and a manifest imbalance of relevant considerations, the latter (necessity test) limits infringement of human rights to the least restrictive alternative. (Judicial Review of Administrative Action (1995), pp. 601-05, para 13.085; Wade & Forsyth: Administrative Law (2005), p. 366; Mukul Kumar Choudhuri5). What is otherwise within the discretionary domain and sole power of the decision maker to quantify the punishment, once the charge of misconduct stands proved, is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment, which is grossly in excess of the allegations, cannot claim immunity and remains open for

interference under limited scope of judicial review. One of the tests to be applied, while dealing with the question of quantum of punishment, would be: would any reasonable person have imposed such punishment in like circumstances? Obviously, a reasonable person is expected to take into consideration the measure, magnitude and degree of misconduct and all other relevant circumstances, and exclude irrelevant matters before imposing punishment. (Mukul Kumar Choudhuri5).

11.The CHALR enables both suspension and revocation of the license of a CHA for violation of any of the conditions specified therein. If any such ground exists, two courses are open to the Commissioner. One is to suspend the license and the other is to revoke it. Suspension would mean that the license would be inoperative for a particular period. An order of revocation would mean that the license is totally inoperative in future, it loses its currency irretrievably. Suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of the facts. For minor infraction, or infractions which are not of a serious nature, an order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where the infraction is of a serious nature warranting exemplary action on the part of the authorities for, otherwise, two types of actions would not have been provided for. Primarily it is for the Commissioner to decide as to which of the actions would be appropriate but, while choosing any one of the two modes, the Commissioner has to consider all relevant aspects, and draw a balance sheet of the gravity of the infraction and the mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension has to be borne in mind while dealing with individual cases. The proportionality question is of great significance as action is under a fiscal statute, and may ultimately lead to a civil death. (Falcon Air Cargo and Travels (P) Ltd4).

12.It should be borne in mind that, in disciplinary matters, the Commissioner is responsible for the happenings in the Customs area, and for the discipline to be maintained thereat. If he takes a decision necessary for that purpose, the CESTAT would, ordinarily, not interfere on the basis of its own notions of the difficulties likely to be faced by the CHA or their employees. The decision is best left to the disciplinary authority save in exceptional cases where the punishment imposed is shockingly disproportionate or is malafide. (Worldwide Cargo Movers1).

13.A similar case, involving blank shipping bills being signed by a CHA, came up for consideration before the Division bench of the Madras High Court. In Sri Kamakshi Agency2, a search was conducted by officers of the Revenue Intelligence, Madras in the premises of M/s. G.D. Enterprises, Madras and others. Voluminous incriminating documents were recovered revealing evasion of Rs.80,00,000/- as duty. The documents, in this case, were filed by the CHA SriKamakshi Agency. During the course of enquiry the authorised representative of the CHA deposed that he had signed the bills getting a remuneration of Rs.50/- per bill. It is in this factual background that the Division bench of the Madras High Court held:- "...........On perusal of the report of the Enquiry Officer as well as the orders of the respondents and the Tribunal, it is beyond doubt that the Applicant committed gross violation of the Regulation while acting as Customs House Agent. In fact, the Applicant has admitted the malpractices found out by the Directorate of Revenue Intelligence which resulted in an evasion of duty to the tune of Rs. 80 lakhs. The only stand of the Applicant was that because of the wrong committed by his Power of Attorney, Shri Sukumaran, the various lapses discovered by the Directorate Revenue Intelligence had taken place. He only contended that by way of caution, he had taken a deposit of Rs. 75, 000/- from the Power of Attorney to safeguard himself from any misuse. It only disclose that the Applicant instead of discharging his functions as a Customs House Agent in accordance with the Regulations, in fragrant violation of those Regulations went to the extent of encashing the facilities made available to him as a CHA by selling it for a price which action of the Applicant can never be condoned. The very purpose of granting a licence to a person to act as Custom House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods at any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person in the matter of preparation of various documents, determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments etc. Therefore the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the

Regulations relating to the grant of licence to act as Custom House Agent, it is seen that while Custom House Agent should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as Custom House Agent. In such circumstances, the person playing the role of Custom House Agent has got greater responsibility. The very prescription that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as Custom House Agent, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as a CHA by taking advantage of his access to the Department. The grant of licence to a person to act as Custom House Agent is to some extent to assist the Department with the various procedures such as scrutinising the various documents to be presented in the course of transaction of business for entry and exit of conveyance or the import or export of the goods. In such circumstances, great confidence is reposed in a Custom House Agent. Any misuse of such position by the Custom House Agent will have far reaching consequences in the transaction of business by the Custom House officials. Therefore when the Applicant who had thirty years of experience as Custom House Agent, when he paved the way for his Power of Attorney to indulge in serious malpractices which ultimately resulted in loss of revenue to the Custom House to the extent of more than 80 lakhs, there is every justification in the respondents in treating the action of the applicant as detrimental to the interest of the nation and pass the final order of revoking his licence. As far as the allegations levelled against the Applicant are concerned, it has been found established that the Proprietor of the Applicant Thiru Natarajan had signed on certain blank documents such as Bs/F and S/Bs without knowing the importers/exporters and the nature of goods imported/exported in spite of being in the clearing line over thirty years. It is also admitted that Sri D.Sukumaran, Manager-cum-Power of Attorney of the Custom House Agent concerned,had actively involved in the fraudulent act in connivance with the importers and others and that as per the Power of Attorney Bond executed by Sri K. Natarajan all acts, deeds and things done by Sri D. Sukumaran were to be construed as if they were done by himself. Therefore virtually all the fraudulent activities carried out by the Power of Attorney of Thiru Natarajan were to be treated as having been carried out by Thiru K. Natarajan himself. Even assuming that the role played by Thiru D. Sukumaran is to be construe as that of an employee of the Applicant, the same would not in any way alter the situation since that had resulted in a serious loss to the respondent. The fact remains that the respondent sustained a loss of duty by the reckless and irresponsible behavior of the Applicant in the course of discharge of his functions as Custom House Agent licensee. The respondent therefore rightly revoked the Custom House Agent licence of the Applicant. In the circumstances, while answering the questions now referred by the Tribunal in C/Ref/13/97 in favour of the respondent holding that the order of the Tribunal to the effect that on further deposit of Rs. 25,000/-, the licence of the Applicant should stand renewed with effect from 1-1-1997 is wholly illegal and improper, the various questions referred in C/Ref/13/97 are answered against the Applicant........."

Sri Kamakshi Agency carried the matter in appeal. The Supreme Court, in Kamakshi Agency3, dismissed S.L.P. (Civil) No.631 of 2001 by order dated 22.01.2001, upholding the order of the Division bench of the Madras High Court.

14.While the punishment imposed on the CHA has to be commensurate with the gravity of the proved acts of misconduct as, on revocation of his license, the CHA would suffer, it must not be lost sight of that, though it is the right of a citizen to carry on his business or profession, it is subject to reasonable restrictions and conditions which, in the present case, are stipulated under the CHALR. (Worldwide Cargo Movers1). As noted hereinabove, blank shipping bills were issued by the partner and authorized representative of the respondent CHA for a consideration of Rs.150/- per shipping bill. In cases involving corruption there cannot be any punishment lesser than the maximum i.e., revocation of the license. No other lesser punishment can be contemplated in such cases. (State of T.N. v. K. Guruswamy6). Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The consideration received for the act of misconduct may be small or large. It is the act of corruption that is relevant, and not the quantum involved in such acts. (Ruston & Hornsby (I) Ltd. v. T.B. Kadam7; U.P.

SRTC v. Basudeo Chaudhary8; Janatha Bazar (South Kanara Central Coop. Wholesale Stores Ltd.) v. Sahakari Noukarara Sangha9; Karnataka SRTC v. B.S. Hullikatti10; Rajasthan SRTC v. Ghanshyam Sharma11.; Municipal Committee, Bahadurgarh v. Krishnan Behari12; U.P. SRTC v. Suresh Chand Sharma13; J.A. Naiksatam v. Prothonotary & Senior Master, High Court of Bombay14; Union of India v. Gyan Chand Chattar15; NEKRTC v. H. Amaresh16; U.P. SRTC v. Vinod Kumar17.

15.While great emphasis is placed by Sri C. Kodandaram, Learned Senior Counsel appearing on behalf of the respondent, on the previous unblemished record of the CHA, it must be borne in mind that a single act of corruption is sufficient to award the maximum penalty which, under the CHALR, is of revocation of the license. (State of Punjab v. Ex-Constable Ram Singh18). That the respondent has been found guilty under Section 114 of the Customs Act, which proceedings have attained finality, is also a factor which must be borne in mind. While Tribunals constituted under the Customs Act, and this Court exercising jurisdiction under Section 130 of the Customs Act, are required to ensure that the punishment imposed is commensurate to the proved acts of misconduct, the present case which not only involves negligence on the part of the CHA in issuing blank shipping bills, but also an act of corruption in receiving Rs.150/- as consideration for each such blank shipping bill would necessitate imposition of the maximum punishment which, under the CHALR, is of revocation of the license of the CHA. Mere suspension of license, in the facts of the present case, would be wholly unjustified. Ordinarily, matters of discipline lie in the realm of the competent authority i.e., the Commissioner of Customs who is best placed to understand the importance of the CHA in a customs area, and the trust and confidence reposed on him by the customs department. In an appeal, preferred against an order imposing punishment under the CHALR, the CESTAT should not be swayed by considerations of misplaced sympathy. Interference with the punishment imposed would be justified only when it shocks the conscience of the CESTAT. No indulgence can be shown to persons indulging in acts of corruption. The punishment imposed on the respondent, by the Commissioner of Customs, of revocation of their license, when viewed in the mlight of the grave and serious acts of misconduct held established, is justified. The punishment imposed is not one which can be said to shock the conscience of courts/tribunals. The order passed by the CESTAT on mere surmises and conjectures and their interference, with the punishment imposed by the Commissioner, on grounds of misplaced sympathy is in excess of their jurisdiction, and gives rise to a substantial question of law necessitating interference by this Court under Section 130 of the Customs Act. The order of CESTAT is, therefore, set aside, and the order of the Commissioner, revoking the license of the respondent CHA, is affirmed. The appeal is, accordingly, allowed. However, in the circumstances, without costs.