CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 3

CUSTOMS APPEAL NO. 51731 OF 2025

[Arising out of Order in Appeal No. CC(A) CUS/D-II/TKDE/414/2025-26 dated 31.07.2025 passed by the Commissioner of Customs (Appeals), New Delhi]

RAVI DHANWARIYA **.....APPELLANT**
D-75, Ranjit Vihar, Nilothi Extention
Nangloi, Delhi-110041

Vs.

COMMISSIONER OF CUSTOMS EXPORT ICD TKD-NEW DELHI **.....RESPONDENT**
New Customs House, Near IGI Airport,
New Delhi

Appearance:
Present for the Appellant : Shri T.Chakrapani, Consultant, Ms. Gayathri, Shri Jiten Yadav and Shri Anil Kumar, Advocates

Present for the Respondent: Shri Ram Parvesh Prasad, Authorised Representative

CORAM:
HON'BLE MR. P.V.SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50996 /2026

DATE OF HEARING/DECISION : 26/05/2026

P.V. SUBBA RAO

1. **Shri Ravi Dhanwariya**[1] filed this appeal to assail the order dated 23.07.2025[2] passed by the Commissioner of Customs (Appeals), New Delhi in which she dismissed the appeal filed by the appellant and upheld the order dated 30.06.2023[3] passed by the Additional Commissioner imposing, inter alia, penalty of

---

1 **Appellant**
2 **Impugned order**
3 **OIO**

Rs. 3,00,000/- on the appellant under section 114(iii) of the Customs Act, 1962[4].

2. I have heard Shri T. Chakrapani, learned consultant for the appellant and Shri Ram Parvesh Prasad, learned authorized representative appearing for the Revenue and perused the records.

3. The appellant, a Customs Broker, had filed six shipping bills on behalf of M/s Sharp Enterprises, the exporter. Suspecting that the export goods were heavily overvalued in order to avail ineligible export benefits, the Special Intelligence and Investigation Branch[5] of the Commissionerate of Customs, Tughlakabad examined the goods under Panchnama dated 30.11.2021 and seized them under seizure memo dated 01.12.2021.

4. After completing the investigation, a show cause notice dated 30.05.2022 was issued to M/s Sharp Enterprises, the exporter, to the appellant herein and to others. The Additional Commissioner decided the proposals in the show cause notice by order dated 30.06.2023 and he imposed a penalty of Rs. 3,00,000./- on the appellant under section 114(iii) of the Act. On appeal, the Commissioner (Appeal), by the impugned order, upheld the order of the Additional Commissioner. Hence, this appeal.

5. Learned consultant for the appellant submits that in respect of the same investigation, separate proceedings were also initiated against the appellant under Customs Broker Licensing Regulations, 2018[6] and an order was passed revoking his licence and imposing penalty under CBLR. This Tribunal, by Final Order dated 05.03.2025,

---

4 Act
5 SIIB
6 CBLR

partly allowed the appeal of the appellant by setting aside the revocation of licence but upholding the penalty of Rs. 50,000/- imposed on the appellant for the reason that the appellant was found to have violated regulation 10(a) and 10(q) but not other clauses of the CBLR. Learned consultant for the appellant submits that insofar as the question of overvaluation is concerned, in paragraph 17 of the Final Order it is recorded that there was nothing on record to show that the appellant had knowledge of overvaluation of exports but had not informed the department. He, therefore, prays that the penalty imposed on the appellant under section 114(iii) may to be set aside and this appeal may be allowed.

6. Learned authorized representative for the revenue, on the other hand, asserted that the impugned order is correct and proper and calls for no interference. He draws the attention of the Bench to the fact that the appellant had not all cooperated during the entire investigation against the exporter which should be sufficient evidence of his intentions. Therefore, the penalty imposed on the appellant is justified. He further draws attention of this Bench, paragraph 5.1.3. of the Commissioner (Appeals) order in which she noted that in the Final Order of this Tribunal there was a categorical finding that the appellant had violated regulations 10(a) and 10(q) and, therefore, the Commissioner (Appeals) held that it was sufficient to show that the appellant had abetted overvaluation of the goods. In view of the above, the appeal may be dismissed and the impugned order may be upheld.

7. I have considered the submissions advanced by both sides and perused the records.

8. It is undisputed that in respect of the same investigation, separate proceeding under CBLR were also initiated which were decided by this Tribunal's by Final Order dated 05.03.2025, in which the appellant was found to have violated regulations 10(a) and 10(q)of the CBLR but not the other regulations. Accordingly, the revocation of license of the appellant under CBLR was set aside and imposition of penalty of Rs. 50,000/- was upheld.

9. However, what is relevant in this case is only the penalty under section 114(iii) of the Act. Penalties under section 114 of the Act can be imposed for acts or omissions which rendered the export goods liable to confiscation under section 113 of the Act. In this case, the export goods were held liable to confiscation under section 113(i) of the Act for the reason that exporter had overvalued the export goods. The question which needs to be answered in this case is whether the Customs Broker had any knowledge of this overvaluation or had abetted overvaluation. There is nothing in the investigation or in the impugned order or in the order of the Additional Commissioner which would show that the appellant was involved in overvaluing the exports. There is also nothing on record to show that the appellant had knowledge that the export goods were overvalued.

10. The price of any goods is the consideration agreed to between the buyer and the seller. The exporter M/s Sharp Enterprises and the importer abroad decide the prices of goods which is reflected in their documents. The assessing officer assessing the shipping bills or the investigating officer can look into the export of the goods and even re-determine the value under section 14 and the Export Valuation Rules. The appellant, as the customs broker, had no right to either

decide the prices of the goods or to question them or to re-determine the value. In fact, in the scheme of the things in the customs, the customs broker has no right to even open and examine the goods being exported. Such right vests only with the customs officers.

11. There is also nothing on show, as we have recorded in the final order in the CBLR order, that the appellant had knowledge that the export goods were overvalued but had not disclosed this fact to the officers.

12. I have considered the submissions of the learned authorized representative that the appellant did not cooperate at all during the investigation even when summons were issued to him.

13. However, penalty under section 114(iii) cannot be imposed for non-cooperation during investigation. If any person does not respond to summons or state the truth there are other provisions under which appropriate action can be taken.

14. In view of the above, the appeal is allowed and the penalty imposed on the appellant in the impugned order is set aside with consequential relief to the appellant.

(Order dictated and pronounced in open court)

(P.V.SUBBA RAO)
MEMBER (TECHNICAL)

Tejo