CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi
E-hearing
PRINCIPAL BENCH – COURT NO. 1

Customs Appeal No. 52070 Of 2024

[Arising out of Order-in-Appeal no. 36(RLM)CUS/JPR/2023 dated 18.08.2023 passed by the Commissioner (Appeals) of Central Excise & CGST, jaipur]

Shivam Empire **: Appellant**
P. No. 12, Gram Tanawara, Tehsil
Luni, Main Salawas Road, Jodhpur

Versus

Commissioner of Customs, Jodhpur **: Respondent**
NCR Building, Statute Circle, Jaipur
Rajasthan – 302005

APPEARANCE:
Shri O. P. Agarwal, Consultant for the Appellant
Shri Girijesh Kumar, Authorized Representative for the Respondent

CORAM :

HON'BLE JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 50775/2026

Date of Hearing:09.04.2026

Date of Decision:24.04.2026

HEMAMBIKA R. PRIYA

M/s Shivam Empire[1] have filed the present appeal to assail the impugned Order-in-Appeal No. 36(RLM)CUS/JPR/2023 dated 18.08.2023 wherein the Commissioner (Appeals) had partially allowed the appeal by reducing the penalties to Rs. 1,00,000/- each under section 112(a)(i) and section 114AA of the Customs Act, 1962[2]. However, the redemption fine was maintained.

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1 the appellant
2 the Customs Act

2. The facts, in brief, are that the appellant filed Bill of Entry No. 7464185 dated 12.02.2022 for the clearance of 1723 packages of "BRAD Nail". The consignment, weighing 27,000 Kgs with an assessable value of Rs. 27,06,181/-, was shipped by M/s Longyan Guoyuan Nail Manufactory, China, and classified under CTH 73170099. The Faceless Assessment Group[3] initially assessed the Bill of Entry but pushed it to the Port Assessment Group[4] due to the non-submission of the Legal Metrology Packaged Commodities[5] certificate and the Steel Import Monitoring System[6] certificate. Scrutiny by the PAG revealed that the SIMS certificate No. 5TL426911 was issued on 12.02.2022, the same day the Bill of Entry was filed. This violated SIMS rules, which require importers to apply for registration between the 60th and 15th day before the expected date of arrival. For this shipment, the expected arrival was 18.02.2022, thus the said registration was delayed. The importer had also failed to submit the LMPC certificate at the time of filing, which was a requirement under Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011 for individuals or firms importing commodities for sale or distribution. Enquiry was initiated and the appellant submitted an LMPC certificate (No. GOI/RJ/2022/705 dated 28.02.2022) on 03.03.2022. Thereafter, the importer requested waiver of the Show Cause Notice and personal hearing, requesting for the case to be decided on merit to facilitate the early release of the cargo. The adjudicating authority held that the importer had violated Sections 46(4) and 46(4A) of the Customs Act, 1962, by failing to

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3 FAG
4 PAG
5 LMPC
6 SIMS

ensure the accuracy, completeness, and compliance of the supporting documents at the time of filing. Consequently, the goods were held liable for confiscation under Section 111(d) and 111(0) of the Customs Act, and the importer was deemed liable for penalties under Sections 112(a)(i) and 114AA. In the final order dated 10.03.2022, the authority ordered the confiscation of the goods but allowed the importer an option to redeem them upon payment of a Redemption Fine of Rs. 3,50,000/-. Additionally, a penalty of Rs. 2,25,000/- was imposed under Section 112(a)(i), and a further penalty of Rs. 2,50,000/- was imposed under Section 114AA of the Customs Act, 1962. Aggrieved by the Order-in-Original dated 10.03.2022, the appellant filed an appeal before Commissioner (Appeals) challenging the order of the adjudicating authority. The Commissioner (Appeals) vide the impugned order partially modified the original adjudication order by reducing the penalties under Section 112(a)(i) and Section 114AA to Rs. 1,00,000/- each, while maintaining the amount of Redemption Fine imposed on the goods. Aggrieved by the said order, the appellant has filed the present appeal.

3. Learned consultant for the appellant submitted that there was only technical lapse on the part of the appellant that they had submitted the two certificates late. However, there was no evasion of any duty. Further, the appellant had not provided any false and incorrect materials, therefore, imposition of penalty under Section 114AA was legally not sustainable and liable to be set aside. Learned consultant relied on the decision in **Kamachi Steels Limited** versus

Commissioner of Customs (Seaport-Import), Chennai[7], in this regard wherein on non production of pre-shipment inspection certificate as required under Para 2.32 of Hand Book of Procedure, it was held that it was only a procedural infraction and would not tantamount to improper import of goods. The learned consultant for the appellant prayed that imposition of fine of Rs. 3,50,000/- and penalty of Rs. 1,00,000/- each under section 112(a)(i) and section 114AA was on the higher side and require "sympathetic" consideration by the Tribunal.

4. Learned Authorized Representative for the department submitted that the Commissioner (Appeals) had correctly upheld the adjudicating authority's finding that the goods were imported was in violation of the law. He submitted that the appellant had failed to comply with Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011, which requires the submission of an LMPC certificate at the time of filing the Bill of Entry. He submitted that the appellant had violated Notification No. 17/2015-2020 by failing to obtain a Steel Import Monitoring System (SIMS) registration within the mandatory window (not later than the 15th day before arrival). Under Section 111(d) and Section 111(o) of the Customs Act, 1962, any goods imported contrary to any prohibition or policy condition are liable to confiscation. The fact that the certificates were obtained later does not erase the illegality that existed at the time of import.

4.1 Learned Authorized Representative further submitted that the redemption fine of Rs. 3,50,000/- on an assessable value of Rs. 27,06,181/- was moderate and should not be reduced further. He

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7 Final Order No. 40570 of 2023 dated 17.07.2023

stated that the redemption fine was a "charge against the goods" to allow their release despite their "prohibited" status at entry (due to lack of SIMS/LMPC at the time of arrival). Unlike penalties, the redemption fine was an option given to the owner to avoid the absolute vesting of the goods with the Government. Since the "prohibited" nature of the goods (due to lack of SIMS/LMPC at the time of arrival) was not in dispute, the legal basis for confiscation remained intact regardless of the appellant's subsequent actions. Learned Authorized Representative contended that the Commissioner had already factored in the "technical nature" of the lapse and the lack of "intent to get undue benefit" when granting this relief. By relying on **Kamachi Steels Ltd** (supra), the Commissioner had followed judicial discipline to ensure the penal action fits the procedural nature of the violation.

5. We have heard the learned consultant for the appellant, learned Authorized Representative for the Department and perused the records. The only issue for our consideration is the quantum of RF & PP imposed on the appellant is appropriate for the said lapses.

6. From a perusal of the facts of the case, it is evident that the appellant filed the impugned Bill of Entry without the accompanying documents viz., Steel Import Monitoring Systems Certificate, as per DGFT Notification No. 17/2015-2020 dated 05.09.2019 read with para 3 of the Public Notice 19/2015-2020 dated 28.09.2020, and the LMPC Certificate, as per Rule 27 of LMPC Rules, 2011. It is on record that LMPC Certificate was submitted on 03.03.2022 and SIMS Certificate on 18.02.2022. There is admittedly a violation of the DGFT import notification conditions by not submitting the documents in time.

Nevertheless, these documents were submitted, subsequent to the filing of Bill of Entry, which can certainly be considered as a procedural lapse. Procedure lapses are minor errors or deviations from established procedures, that do not fundamentally alter the substantive outcome. We note that this Tribunal in **M/s Paramount Surgimed Limited Vs Commissioner of Customs, Jaipur-1**[8] held as follows:-

> "8. I further observe that the object of penalties are to ensure that the tax payees should fulfill their legal duties by discouraging tax evasion and non-compliance. The Hon'ble Supreme Court in the case of **Hindustan Steel Ltd. Vs. State of Orissa-1978 (2) ELT J159 (SC)** has held that penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law and was guilty of conduct concamacious or dishonest or acted in conscious disregard of its obligation. The hon'ble Court further held that even if a minimum penalty is prescribed the authority competent to impose penalty will be justified in refusing to invoke penalty when there is a technical or venial breach of the provisions of the Act or where the breach flows from the bona fide belief that the offender is not liable to act in the manner prescribed by the statue. Thus, on the same analogy, it is held that the appellant is not liable for any penal action and so the penal proceedings initiated in the show cause notice merits to be dropped.
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> 9. With reference to Tax Statues, the Hon'ble High Court in full Bench **in CIT Vs. Patram Dass Raja Ram Beri-(1976) 132 ITR 671** has held as follows:
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> "In view of the aforesaid authoritative enunciations, it is unnecessary to elaborate the matter further and it would be evident that generally penalty proceedings in a taxing statute are civil proceedings of remedial or coercive nature imposing an additional tax as a sanction for the speedy collection of revenue. Therefore, the imposition of penalty for a tax delinquency cannot possibly be equated with the conviction and sentence for a criminal offence."

7. In the instant case, it is evident that there was merely delayed submission of relevant certificates which establishes that there was no malafide intent on part of the appellant to violate the provision, or any intent to evade.

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8 (2025 (10) TMI 336 - CESTAT New Delhi)

8. We now consider the penalty of Rs. 1,00,000/- imposed under section 114AA of the Act. In this context, we find that this section imposes penalty for knowingly or intentionally using false or incorrect document/statements in customs transactions. No such evidence had been led by the Revenue to establish that the appellant had knowingly or intentionally submitted false declarations. In fact, is admitted in the impugned order that there was merely technical lapse by the appellant. Hence, the penalty under section 114AA cannot be sustained.

9. In view of the above discussions, we pass the following order:-

(i) Redemption fine is reduced to Rs. 1,00,000/-

(ii) Penalty under section 112(a)(i) is reduced to Rs. 50,000/-

(ii) Penalty under section 114AA is set-aside

10. The impugned order is modified as above and the appeal is allowed to the extent indicated above.

(Order pronounced in the open Court on 24.04.2026)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.