CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60091 of 2026

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-35-2026 dated 09.04.2026 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Sona Casting Pvt Ltd **......Appellant**
G.T. Road, Sirhind Side, Opp. King SRM,
Mandi Gobindgarh, Fatehgarh Sahib,
Punjab

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
Customs House, ICD GRFL Complex,
G.T. Road, Sahnewal, Ludhiana,
Punjab 141120

APPEARANCE:

Mr. Naveen Bindal and Mr. Bharat Jain, Advocates for the Appellant

Mr. Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60396/2026

DATE OF HEARING: 27.05.2026
DATE OF DECISION: 30.06.2026

S. S. GARG :

The present appeal is directed against the impugned Order-in-Appeal No. LUD-EXCUS-001-APP-35-2026 dated 09.04.2026 passed by the Commissioner (Appeals), CGST, Ludhiana, whereby the learned Commissioner (Appeals) has rejected the appeal of the Appellant and upheld the Order-in-Original.

2. Briefly stated facts of the present case are that the Appellant are engaged in importing of goods. In normal course of business, they imported Heavy Melting Scrap and filed Bill of Entry No. 4236079 dated 01.09.2025. The Department, after examining the documents, found that Pre-Shipment Inspection Certificate ('PSIC') uploaded by the Appellant had been issued by M/s Asia Inspection Agency Ltd. As per PSIC, place of inspection is Port Georgetown, Guyana. As per the DGFT Public Notice No. 48/2015-20 dated 05.01.2023, Guyana is not mentioned anywhere in the area of operation of M/s Asia Inspection Agency Ltd. Accordingly, the Department treated the PSIC as invalid. The goods were seized as invalid PSIC had been submitted. Thereafter, on the request of the Appellant, the Post Shipment Inspection of the consignment was conducted by the DGFT approved agency M/s Global Marine Inspection on 14.10.2025 and it was confirmed that the radiation levels and safety parameters were within the prescribed limits. After following the due process, the Adjudicating Authority passed the Order-in-Original dated 04.12.2025 and ordered for confiscating the goods under Section 111(d) of the Customs Act, 1962 treating the same as prohibited goods and also ordered to redeem the said goods for re-export on payment of redemption fine of Rs.8,00,000/-. Besides this, a penalty of Rs.4,00,000/- under Section 112 and a penalty of Rs.4,00,000/- under Section 114AA of the Act were also imposed. Aggrieved by the said Order-in-Original, the Appellant filed appeal before the Commissioner (Appeals), who vide the impugned

Order-in-Appeal, has rejected their appeal. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the Appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the provisions of the Customs Act as well as binding judicial precedents.

4.1 He further submits that the Department has mis-interpreted Section 2(33) of the Customs Act, 1962 which defines prohibited goods. As per Section 2(33), prohibited goods does not include those goods in respect of which condition has been complied with. He further submits that in the present case, the goods have been inspected by accredited/empanelled agencies before clearance of it and therefore, condition has been complied with prior to clearance of the goods and hence, the impugned goods are no more said to be prohibited goods.

4.2 He also submits that PSIC is required to be presented before the actual clearance of the goods and in the present case, said condition has been duly complied when empanelled agency has given the certificate. He further submits that the plain intention behind requirement of PSIC is to rule out possibility of containing arms, ammunition, mines, shells, cartridges or any war material in the consignment. He also submits that it is undisputed after getting certificate from local agency that the goods are not containing any war material and it amounts to substantial compliance of the scheme and therefore, confiscation, fine and penalty are not sustainable.

4.3 He further submits that DGFT Policy nowhere prohibits Post Shipment Inspection; under para 2.51(d) of the Handbook of Procedure 2023, the only requirement is "*At the time of clearance, importer shall furnish PSIC in Appendix 2H format*". He also submits that there is no bar on fresh inspection, Post Shipment Inspection or inspection by DGFT approved Indian agencies.

4.4 He further submits that it is not the case of the Department that the goods were not inspected in Guyana and the agency is not empanelled agency of DGFT. But the only lapse was that the agency was not authorized to operate in Guyana. When empanelled agency had inspected the goods and further found in order by local agency, it is hyper technical to confiscate the consignment and impose heavy fine and penalty. In support of this submission, he relies on the judgment of Hon'ble Gujarat High Court in the case of **Commissioner of Customs vs. Moolchand Steels Pvt Ltd [2008 (224) ELT 57 (Guj.)]** wherein the Hon'ble High Court has upheld the view taken by the Tribunal in setting aside the confiscation and penalty. He also relies on the following decisions:

- **Palco Recycle Exchange Limited vs. CC, Mundra Kutch – [2026 (3) TMI 1094-CESTAT Ahmedabad]**
- **CC vs. Senor Metals Pvt Ltd – [2009 (236) ELT 445 (Guj.)]**
- **Bhushan Steel Ltd vs. CC, Visakhapatnam – [2016 (336) ELT 699 (Tri. Hyd.)**

- **M/s Kamachi Steels Ltd vs. CC, Chennai – [2023 (7) TMI 779-CESTAT Chennai]**

5. On the other hand, the learned Authorized Representative for the Department has filed the written submissions and has reiterated the findings of the impugned order.

5.1 He submits that the goods were rightly seized by the Department because the Appellant could not produce a valid PSIC and the PSIC uploaded by the Appellant was issued by M/s Asia Inspection Agency Ltd showing the place of inspection as Port Georgetown, Guyana, which was not a notified area of the operation for the said agency. Consequently, the PSIC was held to be invalid and the imposition of fine and penalty is in accordance with the provisions of the Customs Act.

5.2 He further submits that the requirement of a valid PSIC from an agency authorized for the specific country is a mandatory pre-condition for import of metallic scrap and is not a mere formality.

5.3 He further submits that Post Shipment Inspection in India cannot cure a fundamental defect of the valid PSIC. He also submits that the Appellant had a knowledge that the said agency is not authorized for that area for issuing the PSIC and hence, penalties under the provisions of the Customs Act, have rightly been imposed.

5.4 He further tries to distinguish the decisions relied upon by the Appellant on the basis that the facts of those decisions are different than the facts of the present case.

6. We have considered the submissions made by both the parties and perused the material on record as well as the decisions relied upon by the Appellant. We find that in the present case, the Department has confiscated the impugned goods as 'prohibited goods' because the PSIC issued by the empanelled agency namely M/s Asia Inspection Agency Ltd is not notified for Guyana and consequently, the Department has held the said PSIC as 'invalid' and confiscated the goods, but allowed the same to re-export on payment of redemption fine of Rs.8,00,000/- and penalty of Rs.4,00,000/- under Section 112 and penalty of Rs.4,00,000/- under Section 114AA of the Act. Further, we find that though the said agency was empanelled with the DGFT but the only lapse was that it was not authorized for that area where the inspection took place. But, subsequent, on the request of the Appellant, Post Shipment Inspection was allowed because the DGFT Policy nowhere prohibits the Post Shipment Inspection. On Post Shipment Inspection, nothing objectionable material was found in the impugned goods because the said goods did not contain any war material etc.

7. We also find that it is not disputed that the goods were inspected in Guyana by the agency which is an empanelled agency of DGFT. The only lapse was that the said agency was not authorized to operate in Guyana. Further, we find that when the local empanelled agency inspected the goods and issued the PSIC and did not find any objectionable material in the impugned goods, then it is a substantial compliance of the DGFT Policy.

8. We also find that this issue has been considered recently by the Ahmedabad Bench of this Tribunal in the case of **Palco Recycle Exchange Limited** (supra), wherein also similar violation was there and the goods were 100% re-examined at the local port when the goods arrived in India and it was held by the Tribunal that as no such incriminating material was found in the consignment and radiation level was not found in excess of neutral background, non-compliance of the condition of import policy may entail 100% inspection of goods but would not tantamount to improper import of goods liable to confiscation under Section 111 of the Customs Act, 1962. In this regard, it is pertinent to reproduced the relevant findings of the Tribunal, which are reproduced herein below:

> *"**5.3** The appellant relied on the decision in the case of Alang Meta Exim Pvt. Ltd Vs. CC (2015 (328) ELT 665 (Tri. Ahmd.) wherein it is held that the importer have taken precaution and produced pre-shipment inspection certificate from authorised agency and copy of contract with foreign supplier as per procedure prescribed by DGFT. They are not required to take any further precaution. Confiscation of waste and scrap and imposition of penalty not sustainable. They also quoted the decision of Hon'ble Gujarat High Court in the case of Commissioner of Customs vs. Senor Metals Pvt. Limited – 2009 (236) ELT 445 (Guj.) wherein it was held that Section 111(d) of the Act permits confiscation of goods improperly imported, namely, any goods imported : (i) contrary to any prohibition imposed by or under the Act, or (ii) contrary to any prohibition imposed by any other law for the time being in force. The former is not the case of Revenue. In so far as the latter is concerned, there is no prohibition against import of the goods in question. 'Paragraph No. 2.32 of the Handbook itself specifies this. Only, the import is subject to fulfilment of stipulated conditions which are to be complied with by the exporter. Non-compliance thereof may entail an importer to undergo 100% inspection of entire consignment. That would not tantamount to improper import of goods as required by Section 111 of Customs Act, 1962. Relying on the above decision of Hon'ble Gujarat High Court, CESTAT*

> *Chennai in the case of CMA CGM Agencies (I) Pvt. Ltd Vs. Commissioner of Customs (Port-Import), Chennai – 2016 (341) ELT 311 (Tri. Chennai) held that purpose of PSIC is to ensure that the consignment does not contain any types of arms, ammunition or other explosive material. As no such incriminating material was found in consignment, radiation level was not found in excess of neutral background, non-compliance of the condition of import policy may entail 100% inspection of goods but would not tantamount to improper import of goods liable to confiscation under Section 111 of the Customs Act, 1962. Abetment was also not proved. Imposition of penalty under Section 112(a) was set-aside.*
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> ***5.4** In the factual matrix, there is no sufficient evidence that the appellants have abetted in production of invalid PSIC to make import of prohibited goods by contravening Foreign Trade Policy. Therefore, relying on the above decisions, we allow the appeals filed by M/s. Palco Recycle Exchange Limited, Shri Pramodkumar Ramanlal Agarwal, (Appellant 2) and Shri Vishal Gupta, Vice President of M/s. Vistas Trading, New Delhi (Appellant 3) and set-aside the impugned order to the extent of confiscation of seized goods, imposition of Redemption fine and penalty on the above three appellants."*

9. Further, we also find that in the case of **CC vs. Senor Metals Pvt Ltd** (supra), the Hon'ble Gujarat High Court has held as under:

> *"**10.** Section 111(d) of the Act permits confiscation of goods improperly imported, namely, any goods imported : (i) contrary to any prohibition imposed by or under the Act, or (ii) contrary to any prohibition imposed by any other law for the time being in force. The former is not the case of revenue. In so far as the latter is concerned, there is no prohibition against import of the goods in question "Paragraph No. 2.32 of the Handbook itself specifies this. Only, the import is subject to fulfilment of stipulated conditions which are to be complied with by the exporter. Non-compliance thereof may entail an importer to undergo 100% inspection of the entire consignment. That would not tantamount to improper import of goods as required by Section 111 of the Act."*

10. We also find that the Chennai Bench of the Tribunal in the case of **M/s Kamachi Steels Ltd** (supra), has also held that when 100% examination of the goods has taken place and no prohibited

goods were found, then confiscation under Section 111 of the Customs Act, 1962 is not warranted.

11. By following the ratios of the above cited decisions and keeping in view the facts & circumstances of the case, we are of the considered opinion that the impugned order, imposing the fine and penalty, is not sustainable in law, therefore, we set aside the same by allowing the appeal of the Appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 30.06.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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