CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60139 of 2026

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-46-2026 dated 29.04.2026 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s Madhav KRG HRC Pvt Ltd **......Appellant**
Village Akalgarh, Amloh Bhadson Road,
Near Toll Plaza, Dist Patiala, Punjab

VERSUS

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

APPEARANCE:

Mr. Saurabh Kapoor, Ms. Tanya Kumar and Mr. Vivek Sharma, 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. 60397/2026

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-46-2026 dated 29.04.2026 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. 3923622 dated 16.08.2025. 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. In the said PSIC, place of inspection was mentioned Port Louis, Mauritius. As per the DGFT Public Notice No. 48/2015-20 dated 05.01.2023, Mauritius is not mentioned anywhere in the area of operation of M/s Asia Inspection Agency Ltd. As per para 2.52(e) of the Hand-Book of Procedure, 2023, a Pre-Shipment Inspection Agency ('PSIA') can carry out inspection only in the countries which fall under its area of operations. It was observed that Mauritius country was not the notified area of operation of M/s Asia Inspection Agency Ltd and accordingly, the Department treated the said PSIC as invalid. On this basis, it appeared that the Appellant had contravened the provisions of Sections 46(4) and 46(4A) of the Customs Act, 1962, read with the relevant DGFT notifications and guidelines. Hence, according to the Department, the goods so imported fall under the category of restricted goods which fall under the definition of 'prohibited goods' as defined under Section 2(33) of the Act. Accordingly, the impugned goods were seized under Section 110 of the Act on the reasonable belief that the same appeared liable to confiscation under Section 111(d) of the Act, being treated

as 'prohibited goods' on account of 'invalid PSIC'. Thereafter, the Department issued a Show Cause Notice to the Appellant and after following the due process, the Adjudicating Authority passed the Order-in-Original dated 03.12.2025 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.6,00,000/-. Besides this, a penalty of Rs.3,00,000/- under Section 112 and a penalty of Rs.3,00,000/- 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. Ms. Tanya Kumar, 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 She further submits that the imported goods were accompanied with PSIC issued by PSIA duly authorized by DGFT. She also submits that the imported goods comprising of Heavy Melting Scrap were found to be free from any kind of war material and in the absence of any objectionable material, the instant confiscation as ordered by the Customs Department is liable to be set aside.

4.2 She also submits that PSIA namely M/s Asia Inspection Agency Ltd was duly certified by DGFT, however the said agency was not having its area of operation in Mauritius during the interregnum period of import of goods. She also submits that no action has been initiated against the PSIA for issuing the PSIC beyond its jurisdiction. She further submits that the PSIC, along with relevant documents, was uploaded on the portal of DGFT and the same was duly accepted by the DGFT.

4.3 She further submits that once the goods have been examined by the inspecting agency in India and it has been found that there was no war material or any objectionable material in the imported goods, then there is no violation of the provisions of Customs Law.

4.4 She also submits that the Department has erred in ordering for re-export of goods wherein the imported goods are not the offending goods having been imported in compliance with the provisions of Customs Act. For any violation of Customs Law as well as DGFT notifications by an inspecting agency, the Appellant cannot be saddled with the deterrent consequences including the one of 're-export'.

4.5 She further submits that the Department has erred in invoking the provisions relating to 'prohibited goods' under Section 2(33) of the Customs Act without appreciating that the goods in question were at best restricted goods subject to regulatory compliance and not absolutely prohibited goods.

4.6 She further submits that the penalties imposed on the Appellant under Sections 112 & 114AA are also not legally sustainable because there is no fault at the end of the Importer-Appellant.

4.7 In support of her submissions, she places reliance on the following decisions:

- **Moolchand Steels Pvt Ltd vs. CC, Kandla – [2006 (206) ELT 793 (Tri. Del.)]** affirmed by the Hon'ble Gujarat High Court – [**2008 (221) ELT A118 (Guj.)**]
- **CC vs. Senor Metals Pvt Ltd – [2009 (236) ELT 445 (Guj.)]**
- **NGA Steels Pvt Ltd vs. CC, Chennai – [2010 (262) ELT 578 (Tri. Chennai)**
- **Shri Shakti Iron & Steel Rerolling Mill vs. CC, Kandla – [2014 (304) ELT 279 (Tri. Ahmd.)]**
- **Sameer Industries vs. CC, Kandla – [2010 (260) ELT 292 (Tri. Ahmd.)]**
- **CMA GGM Agencies (I) Pvt Ltd vs. CC – [2016 (341) ELT 311 (Tri. Chennai)]**
- **Bhushan Steel Ltd vs. CC, Visakhapatnam – [2016 (336) ELT 699 (Tri. Hyd.)]**
- **ARS Steels & Alloy International Pvt Ltd vs. CC, Chennai – [(2023) 4 Centax 316 (Tri. Chennai)]**

5. On the other hand, the learned Authorized Representative for the Department reiterates the findings of the impugned order and 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 Louis, Mauritius, 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.

5.1 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.

5.2 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.

5.3 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 Mauritius 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.6,00,000/- and penalty of

Rs.3,00,000/- under Section 112 and penalty of Rs.3,00,000/- 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 Port Louis, Mauritius by the agency which is an empanelled agency of DGFT. The only lapse was that the said agency was not authorized to operate in Mauritius. 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 vs. Commissioner of Customs [2026 (3) TMI 1094 – CESTAT Ahmedabad]**, 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.*

> ***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 **Commissioner of Customs 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. Further, we find that the Tribunal in the case of **Moolchand Steels Pvt Ltd vs. Commissioner of Customs** (supra) has considered the similar issue and held as under:

> *"**3.** Considered the submissions made by both sides and perused records. I find that the appellant has produced a pre-inspection certificate by an agency having its branch in Abidjan, though the said branch is not mentioned in the list of the EXIM Policy. It is noteworthy to mention here that the 100% inspection of the consignment was undertaken and nothing objectionable was found in the consignment. To my mind if there is nothing objectionable in the consignment that would attract the provisions of the Customs Act, the*

confiscation and the imposition of the penalty is absolutely wrong and untenable.

4. *Accordingly, the order of confiscation of the HMS and imposing penalty is liable to be set aside. Impugned order set aside and appeal allowed with consequential relief, if any to the appellant."*

Further, we note that the above said decision of the Tribunal has been upheld by the Hon'ble Gujarat High Court, titled as **Commissioner of Customs vs. Moolchand Steels Pvt Ltd [2008 (221) ELT A118 (Guj.)]**.

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)

RA_Saifi