CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

(1) Customs Appeal No. 40417 of 2024

(Arising out of Order-in-Original No.105317/2024 dated 08.03.2024 passed by Commissioner of Customs, Chennai-II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

M/s.Transmarine Corporation **.... Appellant**
MM Complex, A&B, 4th Floor,
150, Old No.246, Linghi Chetty Street,
Mannady,
Chennai 600 001.

VERSUS

The Commissioner of Customs, **... Respondent**
Chennai II Commissionerate (Import)
Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

WITH

(2) Customs Appeal No. 40718 of 2024

(Arising out of Order-in-Original No.105317/2024 dated 08.03.2024 passed by Commissioner of Customs, Chennai-II (Import), Custom House, No.60, Rajaji Salai, Chennai 600 001)

M/s. Shuvam Enterprises **.... Appellant**
7/1, Russel Street,
Kanchana Building, 3rd Floor,
Flat No.3B,
Kolkata 700 071.

VERSUS

The Commissioner of Customs, **... Respondent**
Chennai II Commissionerate (Import)
Custom House,
No.60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Smt. A. Aruna, Advocate for the Appellant (Sl.No.1)
None for the Appellant (Sl.No.2)

Smt. Rajni Menon, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER Nos.40664-40665/2026

DATE OF HEARING : 21.04.2026
DATE OF DECISION : 02.06.2026

The Appeal Nos. C/40417/2024 & C/40418/2024 are filed by the 1st Appellant & 2nd Appellant respectively against the common Order-in-Original No.105317/2024 dated 08.03.2024 passed by the Commissioner of Customs, Chennai-II, whereby the Commissioner has imposed a penalty of Rs.3,00,000/- under Section 112 (a) of the Customs Act, 1962 and Rs.3,00,000/- under Section 114AA *ibid* on each of the Appellants. Admittedly, both the Appellants are Custom Brokers for the importer namely M/s. Larsen & Toubro Limited, Mumbai and relevant facts for disposal of these Appeals as could be gathered from the impugned order are that the importer viz. M/s.Larsen &

Toubro Ltd., Mumbai is engaged in the import of wheel loaders; the Revenue felt that the classification declared by the importer was incorrect and the importer in order to avail concessional rate of duty had wrongly classified the imported goods in question. Insofar as the allegations against the Appellants are concerned, the Appellants had knowingly overlooked the details as to the nature of the goods and Customs Tariff Item (CTI) of the imported wheel loaders and thereby caused evasion of huge amount of Customs duty by suppressing true nature and CTI of the wheel loaders in question, which resulted in the importer claiming *inter alia* the concessional rate of Customs Duty.

2. The above allegation prompted the Commissioner to issue SCN No.71/2023 dated 31.07.2023 on various Noticees thereby *inter alia* proposing the imposition of penalty under Sections 112 (a) and 114AA *ibid* on these two Appellants as co-noticees. It appears from the record that the Appellants/co–noticees filed their reply to the SCN but, the Commissioner not satisfied with the reply, *vide* Order-in-Original No.105317/2024 dated 08.03.2024 has confirmed the penalties as proposed in the SCN. The same has lead to the filing of these Appeals.

3. Heard Smt. A. Aruna, learned Advocate for the 1st Appellant and Smt. Rajni Menon, learned Departmental Representative defended the impugned imposition of penalty; there was no representation for the 2nd Appellant despite service of Notices by the Registry. Hence, the Appeals were taken up for hearing on merits; after hearing both sides, the only question that arises for my consideration in these Appeals is, 'whether the imposition of penalty Sections 112 (a) and 114AA *ibid* is correct?

4. Facts are not in dispute; I have carefully gone through the pleadings both verbal as well as written synopsis filed for the 1st Appellant and also carefully perused the impugned Order-in-Original. There is also not dispute that in respect of the importer viz., **M/s. Larsen & Toubro Limited, Mumbai** this Chennai CESTAT Bench has *vide* Final Order No.41171/2025 dated 28.10.2025 confirmed the classification proposed and confirmed in the Order-in-Original (*supra*). But since the SCN was issued beyond the normal period, it was held in the Final Order (*supra*) that the demand of duty, interest and penalty should be restricted to the normal period alone. For the very same reasons, the

Bench has also felt it proper that since the issue involved classification which was an interpretational one, hence, no *mala fides* could be impregnated into the conduct of the importer.

5. Extending the above rationale, when the importer itself stands exonerated for want of *mala fide* intentions and the issue involved was an interpretational issue, the Customs Broker, who is the 1st Appellant herein cannot be found fault with for simply filing the Bills of Entry at the instructions of the importer. Hence, there cannot be any question as to abetment. The other reason, i.e. the SCN being issued by invoking the larger period of limitation would also apply in the case of the 1st Appellant as well.

6. In view of the above discussion, especially when the importer itself has been exonerated, I do not find any justification in the impugned order imposing/confirming penalties under Sections 112 (a) and 114AA *ibid* and hence, to this extent, the impugned order in so far as the 1st Appellant is concerned, is set aside.

7. The 2nd Appellant also appears to be a Customs Broker operating from Kolkata, the benefit based on the reasons discussed in the preceding paragraphs, extended to the importer should also come to the rescue of this Appellant and hence, to this extent, the penalty imposed on the 2nd Appellant also stands deleted.

8. Resultantly, impugned order insofar as the present Appellants are concerned, stands set aside and the Appeals are allowed as indicated above.

(Order pronounced in open court on 02.06.2026)

sd/-

(P. DINESHA)
Member (Judicial)

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