CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. II

Customs Appeal No. 85164 of 2016

[Arising out of Order-in-Original No. MUM-CUS(AP-II)ACS/08/2015-16 dated 31.01.2023 passed by the Principal Commissioner of Customs, Airport Special Cargo, Mumbai-III]

Lynx Express Pvt. Ltd. **.... Appellant**
Sheeba Apartments,
Kabir Nagar, Saharrod,
Andheri (E), Mumbai 400 099.

Versus

Commissioner of Customs-(CSI Airport) Mumbai **.... Respondent**
Awas Corporate Point, Makwana Lane, Andheri-Kurla Road,
Andheri (E), Mumbai 400 059.

APPEARANCE:

Shri Vinay Ansurkar, Advocate, for the Appellant
Shri Krishna Azad, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 85796/2026

Date of Hearing: 22.04.2026
Date of Decision: 17.06.2026

PER: ASHOK JINDAL

The appellant is in appeal against the impugned order wherein a penalty has been imposed on the appellant of Rs.20,00,000/- under Section 112(a) of the Customs Act, 1962.

2. The facts of the case are that the appellant is an authorised courier agent holding the licence. The appellant filed CBEI-IV Bill of Entry No.016933 dated 20.06.2014 for clearance of various items under different Airway Bill numbers for the consignments which arrived from Dammam by Saudi Airlines Flight No. SV-968 on 17.06.2014. On 17.06.2014, during the screening of the consignments, a Courier Cell Officer noticed dark patches in one of the packages covered vide HAWB No. A0146506

mentioned at serial No.14 of the said CBEI IV. During the course of examination of the soap bars in the presence of the panchas and representatives of the appellant, a cut piece of gold bar was found and, therefore, the officers cut open all the other 16 soap bars and in 8 soap bar, 8 cut pieces of gold were found concealed. The officers thereafter on suspicion scrutinized the said CBEI IV Bill of Entry wherein in respect of item at serial No.23, another 6 pieces of gold bars were found in respect of HAWB Mo. A0146505. In respect of HAWB No. A0212193 at serial No.9, three more cut pieces of gold bars were found concealed in Dettol soap bars. On the basis of the gold found as above, a search was carried out at the office premises of the appellant on 18.06.2014. However, nothing incriminating was found. Similarly, various other consignments in respect of which the appellant filed CBEI-IV Bill of Entry were also suspected ad examined by the Courier Cell Officers ad various panchnamas were drawn on different dates. In all gold totaling 19.15126 kgs. was seized. On the basis of further investigation on 26.06.2014, the licence of the appellant was suspended pending investigation. During the investigation, the statements of various persons were recorded by the officers of the department. On 12.12.2014, the Commissioner of Customs (APSC) issued show cause notice to the appellant and other concerned persons calling upon them to impose penalty on the appellant. The appellant filed reply and submitted that since there is no act of omission or commission on their party, they are not liable to penalty under Section 112(a) and 117 of the Customs Act, 1962, but after granting opportunity of being heard to the appellant, penalty under section 112(a) of the Customs Act,d 1962 on the appellant was confirmed. Against the said order, the appellant is before us.

3. The learned counsel for the appellant submits that the show cause noticed alleged that the appellant has failed to fulfil their obligation as an authorised courier agent in terms of Regulation 13 of the Courier Imports and Exports (Clearance) Regulations, 1998 and has rendered himself liable for penalty under Section 112(a) of the Customs Act, 1962. It is his submission that there is no allegation of conspiracy between the appellant and other noticees and, therefore, the finding of abetment is extraneous. He further submits that the impugned order did not record as to whom the

appellant abetted for imposition of penalty. He further submitted that the show cause notice does not allege any specific regulation under Regulation 13 to impose penalty and the appellant was aware of the concealment of the gold bars prior to the detection by the deparmtent. Therefore, in the absence of any allegation of evidence, penalty cannot be imposed on the appellant. It is further submitted that the appellant was carrying out all the necessary documentation and the consignment was never cleared by them. Therefore, mere filing of Courier Bill of Entry based on the documents presented, cannot be a base for imposition of penalty. He further submits that the action under Courier Regulations was initiated against the appellant has been set aside by this Tribunal vide Final Order No. A/85228/2019 dated 25.01.2019. Appeal filed against that order by the department has been dismissed by the Hon'ble Bombay High Court vie order dated 20.01.2020. Therefore, the contravention of Regulation 13 of the Courier Imports and Exports (Clearance) Regulations, 1998 is not valid.

4. On the other hand, learned AR submits that the appellant being an authorised courier occupied a position of trust within the customs clearance mechanism and is expected to exercise a high degree of diligence and responsibility. The regulatory framework governing courier operations imposes specific obligations to ensure that consignments handled are in compliance with the law and that proper verification of consignors and consignee is undertaken. In the present case, the repeated clearance of consignments containing concealed gold and the use of fictitious addresses unmistakably indicate that such obligations were not fulfilled.

5. Heard the parties and considered the submissions. We find that in the show cause notice, the sole allegation made against the appellant is that the appellant has failed to fulfil their obligation as an authorised courier in terms of Regulation 13 of the Courier Imports and Exports (Clearance) Regulations, 1998. There is no allegation on the appellant which invokes the penalty under Section 112(a) of the Customs Act of abetment. As there is no such allegation abetment, in that circumstances, penalty on the appellant is not imposable. Further, the proceedings were initiated against the appellant under the Courier Imports and Exports (Clearance) Regulations, 1998 which have already been dropped against the appellant vide the order passed by the Hon'ble Bombay High Court on

27.01.2020. In that circumstances, we hold that the penalty on the appellant is not imposable.

6. In view of this, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Order pronounced in open court on 17.06.2026)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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