CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH - COURT NO. 1

CUSTOMS APPEAL NO. 86122 OF 2024

(Arising out of Order–in-Original No. 31/SJ(31)/PCC(ADJN.)/MUMBAI/2023-24 dated 21.12.2023 passed by Principal Commissioner of Customs (Adjudication), Mumbai)

The Commissioner of Customs (Import-I), ...**Appellant**
New Customs House,
Mumbai-400 001

VERSUS

M/s. Electrogen Infra Fze. .....**Respondent**
Saif Plus, R4, 38/A, Saif Zone,
P.O. Box 122528,
Sharjah, United Arab Emirates

WITH

C/86123/2024 **C/86124/2024** **C/86125/2024**

AND

C/86126/2024

APPEARANCE:

Shri Deepak Sharma, Authorized Representative for the Department

None for the Respondents

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 17.04.2026
Date of Decision: 05.06.2026

FINAL ORDER No's. 85712-85716/2026

JUSTICE DILIP GUPTA:

All the aforesaid five appeals have been filed by the Commissioner of Customs (Import-I), Mumbai[1] to assail the order dated 21.12.2023 passed by the Principal Commissioner of Customs (Adjudication), Mumbai[2] that has dropped the proceedings initiated against the five respondents by show cause notice dated 31.08.2016.

---

1. **the Commissioner**
2. **the Principal Commissioner**

2. The respondents in the aforesaid five Customs Appeals are:

Appeal No.	Name of the respondents
C/86122/2024	M/s. Electrogen Infra FZE[3]
C/86123/2024	Vinod Shantilal Shah alias Vinod Shantilal Adani
C/86124/2024	Jatin Shah
C/86125/2024	Mitesh Dani
C/86126/2024	Mehul Jani

3. The show cause notice proposed penalty under section 112(a) of the Customs Act, 1962[4] upon the respondents in these five appeals

4. Penalty under section 112(a) of the Customs Act could be imposed only if the goods were held liable to confiscation. Penalty under section 114AA of the Customs Act can be imposed if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purpose of the Customs Act. These two issues have been examined at length by the Principal Commissioner and a finding has been recorded in respect of the six respondents involved in Customs Appeal No. 86116 of 2024[5] connected with five other appeals that as the goods could not be confiscated, penalties under sections 112(a) ad 114AA of the Customs Act could not be imposed. The relevant findings are as follows:

> "**5.34 The SCN proposed confiscation of impugned imported goods by invoking provisions of Section 111(m) of the Customs Act, 1962. In this regards, in the foregoing paragraphs I have already held that the value of the imported goods was at an arms length and was not influenced by the relationship and that the same had been correctly declared by AEL, AREL, AHPPL, APSEZ/AICTPL and AVCTPL. As per the law laid down by above**

---

3. EIF
4. the Customs Act
5. The Commissioner of Customs (Import-I), Mumbai vs. **M/s. Adani Enterprises Limited decided on**

> **judgments, the goods which are neither prohibited nor have any duty implications cannot be confiscated under Section 111(m) of Customs Act, 1962 for mis declaration of value. Since goods are held not liable for confiscation, the penalty u/s 112 (a) of Customs Act, 1962 is not being imposed.** There is a proposal in SCN for imposition of penalty u/s 114 AA of the Customs Act, 1962. I find that in the SCN, it is stated that since invoices have been manipulated for purpose of over valuation and false and incorrect declaration/ statements have been made in the import document, penalty u/s 114 AA is imposable. However, as stated earlier, the charges of over invoicing of import goods have been held as not maintainable, there is no false or incorrect declaration in the import documentation and therefore, no penalty is imposable u/s 114 AA on the importer noticees."

(emphasis supplied)

5. The relevant finding recorded by the Principal Commissioner in the impugned order on the imposition of penalty under section 112(a) of the Customs Act on the five respondents of these appeals is as follows:

> "5.35 **The penalty u/s 112 (a) on M/s Electrogen Infra FZE, UAE, Shri Vinod Shantilal Adani @ Vinod Shantilal Shah, Shri Jatin Shah, Shri Mitesh Dani & Shri Mehul Jani is not imposable as goods are held not liable for confiscation.**"

(emphasis supplied)

6. As the goods have been held not liable to confiscation, penalty under section 112(a) of the Customs Act could not have been imposed upon the five respondents. There is, therefore, no error in the order dated 21.12.2023 passed by the Principal Commissioner dropping the proceedings initiated against the five respondents.

7. All the five appeals filed by the department, therefore, deserve to be dismissed and are dismissed.

(Order Pronounced on **05.06.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Shreya