CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs/Additional Evidence/20110/2022 and Customs Appeal No.20858 of 2021

(Arising out of Order-in-Original No.COC-CUSTOMS-000-COM-03/2021-22 dated 12.07.2021 passed by the Commissioner of Customs, Cochin).

Commissioner of Customs,
Customs House, Willingdon Island,
Cochin, Kerala-682 009.
Appellant(s)

VERSUS

M/s. Speedway Cargo & Courier Service,
9-462-A2 Akaparambu Vapalassery P.O,
Nedumbassery - 683 572.
Kerala
Respondent(s)

APPEARANCE:

Shri Vikalp Jain, Superintendent (AR) for the Revenue.

Shri M.S. Sajeev Kumar, Advocate for the Respondent

CORAM:

HON'BLE SHRI. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO. 20926/2026

DATE OF HEARING: 31.07.2026

DATE OF DECISION: 31.07.2026

PER: R. MURALIDHAR

The Respondent has filed Miscellaneous Application in the form of additional evidence placed in support of their case. The same is taken up on record and the Miscellaneous Application is allowed.

2. The Respondent is providing courier services. On the ground that they have connived with movement of contravened goods, the Show-cause Notice came to be issued on 01.04.2021. Based on the inspection and investigation, their licence was suspended and subsequently, the suspension was upheld. Proceedings were initiated which came to be adjudicated by the Adjudicating Authority vide Order-in-Original dated 12.07.2021. The Adjudicating Authority vide this Order-in-Original has dropped the proceedings against the Respondent. Being aggrieved, the Revenue is before the Tribunal.

3. The learned Authorized Representative (AR) appearing on behalf of the Revenue reiterates the ground of appeal and submits that the Adjudicating Authority was in error in dropping the proceedings against the Respondent.

4. The Learned counsel appearing on behalf of the Respondent submits that the Adjudicating Authority has considered the Inquiry Officer's report dated 09.06.2021 and has gone through the factual details and after giving a detailed finding, has taken a considered decision to drop the proceedings. Learned counsel supports the detailed findings of the Adjudicating Authority. He also submits that in respect of the proceedings initiated against the contravening parties towards the seized 1250.500 grams of gold, the Respondent was also made a party for imposing penalty under Section 112(a) and (b) of the Customs Act, 1962.

5. It is submitted that the adjudication proceedings was taken up and vide Order-in-Original No.84/2022 dated 17.05.2022, wherein after considering the factual details and the statutory provisions, the Adjudicating Authority has dropped the proposed penalty against the Respondent. The Learned counsel submits that when the impugned Order-in-Original as well as the Order-in-Original dated 17.05.2022 are harmoniously considered, it can be noticed that no case has been made out by the Revenue.

6. Heard both sides. Considering the submissions made, we find that in the impugned order, the Adjudicating Authority has considered the Inquiry Report dated 09.06.2021, which is recorded at paragraph 10 of Order-in-Original. He has also recorded the findings of the Inquiry Officer at paragraph 12 of the impugned order, which is reproduced below:

> "12. The Inquiry Officer, in his report, concluded that the investigation conducted revealed that the three persons viz. Shabeer P.K., Shihab and Abdul Hameed are the masterminds behind the attempted smuggling, and that they had admitted to their role in the matter about having invested money for the attempted smuggling and having obtained passport details of two persons for facilitating the said illegal import; that no evidence has been brought on record to implicate M/s Speedway Cargo & Courier Service; that the accused persons have not, at any stage, alleged that the authorised courier was aware of the presence of the gold in the consignment. The Inquiry Officer recorded his conclusion as below:
>
> > *"It appears that the Authorised Courier, M/s Speedway Cargo & Courier Service, 9-462/A2, Akaparambu, Vapalassery .P.O, Nedumbassery, Cochin-683572, have not wilfully violated provisions under the sub-regulation2(d) (iv) of Regulation 2 of the Courier Imports and Exports (Clearance) Regulations, 1998 and*

obligations cast upon under Regulation 13(b) and (c) of the Regulations ibid."

7. He also recorded the following findings at paragraphs 17, 18 and 19 of the impugned order.

"17. The facts of the case are not in dispute. The gold in the form of foils kept in between layers of carbon papers concealed in the cardboard sheets, and pasted on the inner side of the carton boxes, has been recovered. Investigation has revealed that three persons viz. Shri. Shabeer P.K., Shihab and Abdul Hameed were the mastermind behind the entire smuggling operations. They had also admitted their role in the matter.

18. The declaration filed by the noticee for clearance of the parcel reflects that the same was in respect of goods such as cup sets, chips packets, CFL bulbs, soap, torch, perfume, milk powder, washing powder, etc. Unless the consigner has declared that he had concealed the gold foils in the carton boxes, the authorized courier could not have noticed the same on his own. I find on perusal of the records, that the concealment was clever and ingenious, and, could not have been found out, except with the aid of sophisticated technology. Apparently, the authorized courier did not have such facility available at his disposal while receiving the cargo abroad. The contraband could be found out only when the same was subjected to X-ray test on arrival at the courier cell of the Customs Department. Except when the consignment was subjected to such non-invasive probe, no one other than the person who devised such ingenious method, could have any idea of the concealment. The Inquiry Officer has also concluded that the authorized courier cannot be faulted for such ingenious concealment.

19. In view of the discussion above, I hold that the authorized courier is not at fault, in as much as he has acted on the bona fide

> belief that the consignment is devoid of any contraband, and the cargo was genuine. Thus, though the authorised courier has taken effective steps to make his client comply with the legal provisions and exercised his due diligence, the activity of the consigner has landed him under suspicion of law. Therefore, I am inclined to accept the explanation of the authorized courier, and the Inquiry Report, to hold that the noticee has not committed any offence to warrant punitive measures in terms of Regulation 14."

8. In view of the detailed findings given by the Adjudicating Authority and also considering the fact that subsequent proceedings taken up against the Respondent to impose penalty under Section 112(a) and (b) have also been dropped, I do not find any reason to interfere with the impugned order.

9. Accordingly, the appeal filed by the Revenue stands dismissed.

(Order was dictated and pronounced in Open Court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

rv