CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60658 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-AP-2220-2221-19 dated 25.03.2019 passed by the Commissioner (Appeals), of Customs Ludhiana]

M/s Photofax System **......Appellant**
1280 Dr. Mukherjee Nagar Behind Batara
Cinema, Mukherjee Nagar,
Delhi 110009

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
ICD GRFL, G.T. Road,
Sahnewal, Ludhiana
Punjab 141001

WITH

Customs Appeal No. 60659 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-AP-2220-2221-19 dated 25.03.2019 passed by the Commissioner (Appeals), of Customs Ludhiana]

M/s S R K Overseas **......Appellant**
4732/21, Ist Floor
Dayanand Road,
New Delhi 110032

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
ICD GRFL, G.T. Road,
Sahnewal, Ludhiana
Punjab 141001

APPEARANCE:

Shri Saurabh Kapoor and Shri Vivek Sharma, Advocates for the Appellant

Shri 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. 60437-60438 /2026

DATE OF HEARING: 03.07.2026
DATE OF DECISION:03.07.2026

S.S. GARG:

These two appeals are directed against the common impugned order dated 25.03.2019 passed by the Commissioner (Appeals), whereby, the learned Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original. Since, the issue involved in both the appeals are identical and there is a common impugned order, therefore both the appeals are taken up together for discussion and decision. The details of both the appeals are given here in below:

Sr. No.	**Name & Address of the appellant**	**Bill of entry No. & date Order-in-Original & date**	**Redemption Fine/Penalty (In Rs.)**
1.	M/s S R K Overseas 4732/21, Ist Floor Dayanand Road, New Delhi 110032	Bill of Entry No. 7520290 dated 06.08.2018/LUD-CUS-JC-RRG-040-18-19 dated 27.09.2018	12,12,530/-(RF) 25,000/- (Penalty)

2.	M/s Photofax System 1280 Dr. Mukherjee Nagar Behind Batara Cinema, Mukherjee Nagar, Delhi 110009	Bill of Entry No. 7520160 dated 06.08.2018/LUD-CUS-JC-RRG-039-18-19 dated 27.08.2018	11,10,300/-(RF) 25,000/- (Penalty)

2. Briefly the facts of the present case are that the appellant is engaged in the import and trading of Old & Used Digital Multifunctional Devices and has been importing the same without any objection from the Customs Department; during the course of business, the appellant imported a consignment comprising of Old & Used Multifunctional Devices and filed the Bill of Entry No. 7520160 & 7520290 dated 06.08.2018 at the port of ICD Ludhiana declaring the classification of the goods CTH 84433100 and declaring the price of the goods in terms of the price actually paid as well as the declaration made in the import documents.

2.1 The said goods were subject to examination and on examination, it was found that the consignment consists of Old & Used Multifunctional Printers/Scanners of Canon make and different models were found to which the department objected and alleged that the appellant has imported these said consignments in contravention of the provisions of the Foreign Trade Policy. The department also took the opinion of SH. Varun Chandok, Chartered Engineer and thereafter, the adjudicating authority after following the due process passed the adjudication order for confiscation of the goods but allowed the same to be redeemed after imposition of redemption fine of Rs. 11,10,300/- & Rs. 12,12,530/- and also imposition of penalty of Rs. 25,000/- in each case. Aggrieved by the said order, the appellant filed the appeals before the Commissioner (Appeals) who rejected the same. Hence, the present appeals.

3. Heard both the parties and perused the material on record.

4. Learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law. He further submits that the charge of mis-declaration has been levelled solely on the basis of the mis-interpretation of the provision of the Foreign Trade Policy. He further submits that the imposition of fine and penalty is bad in law in so far the goods imported by the appellant were freely importable in view of the judgments rendered by the Hon'ble Madras High Court and other Tribunals. He further submits that it has been consistently held by the various decisions of the Tribunal that redemption fine should be restricted to 10% of the assessable value of the goods. In support of his submissions, he relied upon the following decisions:

- ***M/s Accord Digitech Vs. Commissioner of Customs, Bangalore reported in 2024 (20) Cectax 261 (Tri.-Bang).***
- ***M/s Margue Enterprieses Vs. Commissioner of Customs, (preventive), Amritsar reported in 2015 (329) ELT 307 (Tri.-Del.)***

5. On the other hand, learned authorized representative for the Department, reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record we find that the only issue involved in the present case is whether the quantum of redemption fine imposed in both the appeals is excessive and needs to be reduced. We also find that the Tribunal has considered the issue of redemption fine and penalty in catena of decisions (cited supra), in the case of ***M/s Accord Digitech*** (cited Supra), the Tribunal under identical circumstances has considered the issue and has held as under:

> ***6.2*** *As far as absolute confiscation as ordered in the impugned order is concerned, we are of the considered opinion that in view of the various decisions cited supra, wherein it was consistently held that the absolute confiscation is not justified and goods can be released on payment of redemption fine and penalty. In the earlier decisions, this issue has been considered and it has been held that 10% and 5% of the enhanced value would be proper for redemption fine and penalty respectively. We adopt the same yardstick*

in arriving at the redemption fine and penalty and order that imported goods may be allowed for clearance on payment of redemption fine @ 10% and penalty @5% of the reassessed value besides payment of applicable Customs duty.

***7**. In view of our discussion above, by following the ratio of the various decisions cited supra, we are of the considered opinion that the impugned order is not sustainable in law and therefore set aside and the case is disposed of as per the above directions.*

7. Similarly, the Larger Bench of the Tribunal in the case of ***M/s Marque Enterprises*** (cited supra), has also considered this issue and by majority decision has held as under:

> "***26.** [Per: Archana Wadhwa, Member (3)). In view of the Majority Order, the appeal is allowed in respect of the assessable value. However, confiscation of the goods and Imposition of penalty is upheld with reduction of redemption fine to the extent of 10% of the value of the goods and penalty to the extent of 5% of the declared value."*

8. Since the issue is squarely covered by the above said decisions and the ratio of the decisions is squarely applicable in the present case, therefore, we hold that the quantum of redemption fine cannot exceed 10% of the value of the goods, we accordingly hold so; as far as penalty is concerned, the penalty imposed is already less than 5% so, therefore, we do not modify the quantum of penalty.

9. In view of our discussion above, we allow both the appeals partly and reduced the redemption fine to the extent of 10% of the value of the goods. Accordingly, both the appeals are partly allowed.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash