CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>HYDERABAD</u>

REGIONAL BENCH - COURT NO. – I

Customs Appeal No. 2543 of 2011
(Arising out of **Order-in-Original** No.04/2011-Adjn.Cus dated 26.04.2011 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

Khazana .. **APPELLANT**
Plot No. 1263,
Road No.36,
Jubilee Hills,
Hyderabad,
Telangana – 500 033.

VERSUS

Commissioner of Customs .. **RESPONDENT**
Hyderabad - Customs
Kendriya Shulk Bhavan,
L.B Stadium Road,
Basheerbagh,
Hyderabad,
Telangana – 500 004.

AND

Customs Appeal No. 2544 of 2011
(Arising out of **Order-in-Original** No.04/2011-Adjn.Cus dated 26.04.2011 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

Bhawant Anand .. **APPELLANT**
Managing Partner M/s Khazana
Plot No. 1263,
Road No.36,
Jubilee Hills,
Hyderabad,
Telangana – 500 033.

VERSUS

Commissioner of Customs .. **RESPONDENT**
Hyderabad - Customs
Kendriya Shulk Bhavan,
L.B Stadium Road,
Basheerbagh,
Hyderabad,
Telangana – 500 004.

<u>APPEARANCE:</u>
Shri B. Venugopal, Advocate for the Appellant.
Shri A. Rangadham, Authorized Representative for the Respondent.

CORAM: **HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30380-30381/2026

Date of Hearing: 07.05.2026
Date of Decision: 21.07.2026

[ORDER PER: ANGAD PRASAD]

These appeals arise out of Order-in-Original No.04/2011-Adjn.(CUS) dated 26.04.2011 (impugned order) passed by the Commissioner of Customs, whereby, differential customs duty of Rs. 1,03,045/- was confirmed, interest was demanded under Section 18(3) of the Customs Act, 1962. The imported furniture was held liable to confiscation under Section 111(m) of the Customs Act, redemption fine of Rs. 50,000/- was imposed under Section 125 and penalties under Section 112(a) of the Customs Act, 1962 were imposed upon the appellant M/s Khazana as well as it's Managing Partner Shri Bhawanth Anand (another appellant).

2. The appellant has accepted the differential duty and interest and has deposited the same. The present dispute is confined to legality of confiscation, redemption fine and penalties.

3. The fact in brief, is that the appellant M/s Khazana is engaged in the import of furniture items from China. The Department acting upon intelligence that the importer was systematically resorting undervaluation, officers of the Directorate of Revenue Intelligence (DRI) commenced investigation in respect of Bill of Entry No. 708767 dated 18.01.2018. The goods were provisionally assessed under Section 18(1) of the Customs Act and released upon execution of bond and bank guarantee.

4. During investigation, DRI recovered laptops, hard discs, DVDs and various commercial documents from the premises of the importer.

5, The Department alleges that one commercial invoice bearing no. KH0732 recovered during investigation discloses the actual transaction value at USD 14,144, whereas the Bill of Entry declared the value as USD 10,127.

Electronic data retrieved from the seized laptop and hard disc allegedly corroborated the invoice recovered during investigation.

6. The Department further relied upon the statement of Shri Bhawant Anand recorded under Section 108 of the Customs Act, wherein, according to the Department, he admitted that the actual value of the imported goods approximately USD 14,000. Upon completion of investigation, a Show Cause Notice dated 11.08.2008 proposed rejection of declared value, re-determination of assessable value, confiscation of the imported goods under Section 111(m), recovery of differential duty, interest and imposition of redemption fine and penalties.

7. The Commissioner, after adjudication, confirmed the proposals. Hence, appellants has filed these appeals before this Bench.

8. Learned Counsel for the appellant submits that since the goods had already been provisionally released under Section 18(1) and assessment had subsequently been finalised under Section 18(2), confiscation itself could not legally survive. Consequently, redemption fine under Section 125 was also not sustainable.

9. It is argued that appellant has accepted the differential duty only to avoid prolonged litigation and such payment cannot amount to admission of intentional undervaluation.

10. It is further submitted that redemption fine of Rs. 50,000/- is excessive considering the fact of the case.

11. Regarding penalty upon Shri Bhawant Anand, it is argued that once penalty has already been imposed upon the Partnership Firm, separate

penalty upon the Managing Partner for the same alleged offence is not legally sustainable. Reliance has been placed upon the following case laws:

(i) CCE and C, Surat-II Vs Mohammed Farookh, Mohammed Ghani [2010 (259) ELT 179 (Guj)]

(ii) M.K.Jain Vs Commissioner of Central Excise, Indore [2013 (291) ELT 217 (Tri-Del)].

It is also contended that the show cause notice does not contain independent allegations against Shri Bhawant Anand warranting separate penalty.

12. The Learned Authorised Representative supports the impugned order, inter alia, that investigation has established deliberate undervaluation through multiple independent pieces of evidence. Apart from the recovery of the original commercial invoice, electronic records retrieved from the laptop and hard disc clearly reflected the actual purchase price of the imported goods. The statement recorded under Section 108 of the Customs Act corroborate the documentary evidence.

13. It is further argued that the undervaluation was neither accidental nor isolated but formed part of systematic practice adopted by the importer. The Department also points out that in another proceeding involving similar imports, Settlement Commission recorded findings regarding undervaluation by the appellant. Learned AR placed reliance upon the following case laws:

(i) Additional Director General Adjudication, Directorate of Revenue Intelligence Vs Suresh Kumar and Co. Impex Pvt Ltd., & Others [2025 (9) TMI 76 (SC)]

(ii) Principal Commissioner of Customs Vs Kishan Manjibhai Gadhesariya [2022 (4) TMI 316 (Guj HC)] to contend that once undervaluation is proved through reliable documentary and electronic evidence, confiscation, redemption fine and penalty necessarily follow.

14. We have heard both the sides and perused the records with their submissions.

15. At the outset, it is pertinent to note that the Learned Counsel for the appellants has fairly stated that the appellants are not disputing the demand of differential customs duty arising on account of under valuation of the imported furniture. The differential duty has already been discharged and, therefore, the only surviving dispute relates to the quantum of redemption fine and the penalties imposed under Section 112(a) of the Customs Act, 1962.

16. The records reveal that the undervaluation was not detected merely on the basis of suspicion. During investigation, DRI recovered the original commercial invoice, laptops, hard discs and other electronic records which disclosed the actual transactional value. The electronic data retrieved from the seized devices corroborated the documentary evidence, and the Managing Partner, Shri Bhawant Anand, in his statement recorded under Section 108 of the Customs Act, 1962 admitted that the actual value of the imported goods was substantially higher than the value declared in the Bill of Entry. The Adjudicating Authority has recorded a categorical finding that the goods were intentionally undervalued with a view to evade payment of customs duty. These findings have not been challenged before this Tribunal, as the appellants have accepted the differential duty liability.

17. The Supreme Court in the case of Suresh Kumar and Co. Impex Pvt Ltd., supra, has reiterated that where undervaluation is established on the

basis of reliable documentary and electronic evidence duly corroborated by the material available on record, such evidence constitutes a valid foundation for adjudication under the Customs Act, 1962. Likewise, Hon'ble Gujarat High Court in the case of Kishan Manjibhai Gadhesariya, supra, has recognised that deliberate mis-declaration or undervaluation justifies confiscation of the goods and the consequential imposition of redemption fine and penalty in accordance with the provisions of the Customs Act.

18. Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who, by any act or omission, renders imported goods liable to confiscation under Section 111. Once the goods are held liable to confiscation under Section 111(m) for deliberate mis-declaration of value, the statutory consequence of penalty under Section 112(a) ordinarily follows. The object of the person is not merely compensatory but also deterrent, so as to discourage intentional evasion of customs duty by resorting to undervaluation. The plea of the appellants that they have accepted the differential duty and, therefore, the penalties should be substantially reduced cannot be accepted in the facts of the present case. Payment of duty after detection of the offence does not obliterate the contravention already committed. Acceptance of the duty liability may be a mitigating circumstance while determining the quantum of penalty, but it does not extinguish the statutory liability to penalty where the contravention is deliberate and supported by cogent evidence.

19. The further contention that separate penalty upon Shri Bhawant Anand is not sustainable merely because penalty has been imposed upon the Partnership Firm also deserves rejection. A Partnership Firm and its partners may be distinct for a certain purposes under the Partnership Firm Act, 1932.

However, Section 112(a) imposed personal liability upon any person whose acts or omissions render the goods liable to confiscation. Where the evidence establishes the active involvement of a partner in planning, directing or facilitating for the undervaluation, the partner incurs independent liability under Section 112(a) of the Customs Act, 1962.

20. In the present case, the Adjudicating Authority has relied upon the statement of Shri Bhawant Anand, the electronic records recovered during investigation and his direct involvement in the import transactions. Therefore, his liability is not merely vicarious but flows from his own acts and omissions which contributed to the mis-declaration.

21. Considering the totality of the facts, including the deliberate nature of the undervaluation, the recovery of incriminating documents and electronic records, the admission made during investigation, and the accepted duty liability, we are of considered view that the Adjudicating Authority was justified in imposing penalties under Section 112(a) upon both M/s Khazana and Shri Bhawant Anand.

22. However, as the appellants have accepted the differential duty, have not prolonged the litigation on valuation, and are pressing only for leniency in the matter of redemption fine and penalty, these factors may legitimately be considered only for determining whether the quantum calls for any marginal reduction. Subject to consideration, the penalties imposed under Section 112(a) of the Customs Act are legally sustainable and do not warrants interference on the question of liability. The request for complete waiver of penalties is not acceptable.

23. In view of the above discussion, appeals are liable to be dismissed.

24. Accordingly, both the appeals are dismissed.

(Pronounced in the open court on 21.07.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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