IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75612 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

WITH

Customs Appeal No. 75613 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

WITH

Customs Appeal No. 75614 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

WITH

Customs Appeal No. 75615 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

WITH

Customs Appeal No. 75620 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

AND

Customs Appeal No. 75621 of 2026

(Arising out of Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026 passed by the Commissioner (Appeals), C.G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Saraogi Udyog Private Limited **: Appellant**
Centre Point, Suite No. 212,
2nd Floor, 21, Hemant Basu Sarani,
Kolkata – 700 001, West Bengal

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
C.R. Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

APPEARANCE:

Shri S. Mukherjee, Advocate,
Shri I. Banerjee, Advocate,
Shri A.K. Jha, Consultant,
For the Appellant

Shri T. Sulaiman, Authorized Representative,
For the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs. 75919-75924 / 2026

DATE OF HEARING / DECISION: 17.07.2026

ORDER:

The present batch of six appeals has been preferred by M/s. Saraogi Udyog Pvt. Ltd. (hereinafter referred to as the "appellant") assailing the common Order-in-Appeal No. 27-32/CUS/CCP/1-6/2026 dated 24.04.2026, passed by the Ld. Commissioner of Customs (Appeals), whereby the levy of late filing fee in respect of Supplementary Bills of Entry filed by the appellant came to be upheld.

1.1. Since the issue involved in all the appeals is common and arises out of identical facts, the same were heard together and are being disposed of by this common order.

2. The facts of the case are that the appellant, holding IEC Code No. 0204026032/9, had originally filed six Bills of Entry bearing Nos. 6193105 dated 18.10.2024, 4214416 dated 27.06.2024, 6406512 dated 29.10.2024, 6770934 dated 20.11.2024, 6427406 dated 30.10.2024 and 3618203 dated 23.05.2024, for clearance of 2,88,206 MTs of Steam Coal (Non-Coking) of South African origin. Upon

clearance of the manifested quantity covered under the respective Bills of Entry, it was noticed that certain quantity of the imported cargo still remained lying within the Port area in excess of the quantity originally manifested. In order to clear such excess cargo, the appellant, in terms of Public Notice No. 05/2023 dated 19.05.2023 issued by the Commissioner of Customs (Preventive), Bhubaneswar, filed six Supplementary Bills of Entry bearing Nos. Nos. 9551700 dated 17.04.2025, 9551675, 9551668, 9551688, 9551633 and 9551722, all dated 17.04.2025, for clearing the excess quantity, weighing 15346.118 MT.

3. The Supplementary Bills of Entry were duly assessed to customs duty. However, the Customs Electronic Data Interchange (ICEGATE) system simultaneously generated late filing fee amounting in aggregate to Rs.1,03,79,415/-, computed with reference to the date of filing of the respective Import General Manifests (IGMs). Owing to business exigencies and for securing clearance of the goods, the appellant deposited the said late filing fee under protest and thereafter cleared the cargo. Subsequently, the appellant requested the jurisdictional Assistant Commissioner of Customs, Paradeep Customs Division, for waiver of the said late filing fee by invoking the third proviso to Section 46(3) of the Customs Act, 1962, for which no favourable response was received. Details of the respective Bills of Entry, Supplementary Bills of Entry, quantity involved and late filing fee imposed in each appeal, as observed from the impugned order, are reproduced hereinbelow: -

Sl. No.	Original BE No./Date	IGM No./Date	Name of Vessel	Type of Cargo	Quantity (in MT) in original BE	Supplementary BE No./Date	Quantity in Suppl. BE (in MT)	Late Fee imposed (in Rs.)
1	6193105 dated 18.10.2024	2390844 dated 16.10.2024	MV NECKLACE	Steam Coal	82,222	9551700 dated 17.04.2025	4298.25	17,85,000/-
2	4214416 dated 27.06.2024	2380953 dated 27.06.2024	MV ASIAN PEARL		47,824	9551675 dated 17.04.2025	2565.821	29,15,000/-
3	6406512 dated 29.10.2024	2391866 dated 29.10.2024	MV PORTAITISSA		82,473	9551668 dated 17.04.2025	4472.761	16,35,000/-
4	6770934 dated 20.11.2024	2393422 dated 19.11.2024	MV SANTA MARIA		30,000	9551688 dated 17.04.2025	1591.347	14,25,000/-
5	6427406 dated 30.10.2024	2391981 dated 30.10.2024	MV YERAKI		10,000	9551633 dated 17.04.2025	531.122	5,37,420/-
6	3618203 dated 23.05.2024	2377479 dated 20.05.2024	MV PELAGOS		35,687	9551722 dated 17.04.2025	1886.817	20,81,995/-

4. Aggrieved thereby, the appellant preferred appeals before the Ld. Commissioner (Appeals), G.S.T., C.X. & Cus., Bhubaneswar, who, by way of the impugned common Order-in-Appeal dated 24.04.2026, rejected the appeals and upheld the levy of late filing fee in all the six cases.

4.1.Being dissatisfied and aggrieved by the imposition of late filing fee/fine in respect of the Supplementary Bills of Entry filed, the appellant is now before this Tribunal.

5. The Ld. Counsel appearing on behalf of the appellant submitted that the levy of late filing fee under Section 46(3) of the Customs Act, 1962 is wholly unsustainable in the facts and circumstances of the present case. It was contended that the excess quantity of coal arose solely on account of the peculiar nature of bulk cargo, including variations in moisture content and allied factors, resulting in excess quantity remaining at the Port after clearance of the manifested cargo. It was submitted that the Supplementary Bills of Entry were filed only in

accordance with the prescribed procedure for clearance of such excess cargo and that there was neither any deliberate delay nor any mala fide intention on the part of the appellant. In support of the above contentions, reliance was placed upon the decisions of this Tribunal in *M/s. Kai International Private Limited v. Commissioner of Customs (Preventive), Bhubaneswar [Final Order Nos. 75440-75441 of 2026 dated 25.03.2026 in Customs Appeal Nos. 75944 & 75945 of 2025 – CESTAT, Kolkata]* and *M/s. Agarwal Coal Corporation Ltd. v. Commissioner of Customs (Prev.), Bhubaneswar [Final Order Nos. 75694-75699 of 2026 dated 16.06.2026 in Customs Appeal No. 76044 of 2024 & ors. – CESTAT, Kolkata].*

5.1. The Ld. Counsel further submitted that the Commissioner (Appeals) has, in paragraph 5.7 of the impugned order, erroneously proceeded on the premise that the Import General Manifests (IGMs) had not been amended and, on that basis, sought to distinguish the decision in *M/s. Kai International (supra)*. It was contended that the said observation is factually incorrect inasmuch as the amended IGMs had, in fact, been filed and the relevant documents have been placed on record. It was, therefore, submitted that the distinction sought to be drawn by the Commissioner (Appeals) is without any factual or legal basis and that the ratio laid down in *M/s. Kai International (supra),* as also followed in *M/s. Agarwal Coal Corporation Ltd. (supra),* squarely governs the present batch of appeals.

6. The Ld. Authorized Representative of the Revenue reiterates the findings in the impugned order.

7. Heard both sides and perused the records of the case.

8. The short issue which falls for consideration in the present batch of appeals is whether the levy of late filing fee under Section 46(3) of the Customs Act, 1962 in respect of the Supplementary Bills of Entry filed by the appellant for clearance of excess quantity of imported cargo is legally sustainable in the facts and circumstances of the present case, or not.

8.1. At the outset, I find that the present issue, in principle, is no longer res integra, in view of the decision rendered by this Tribunal in *M/s. Kai International (supra),* which has been followed in *M/s. Agarwal Coal Corporation Ltd. (supra)*. However, before adverting to the ratio laid down in the decisions governing the issue, it is necessary to deal with the principal ground in the impugned order on which the Ld. Commissioner (Appeals) sought to distinguish the decision of this Tribunal in M*/s. Kai International (supra)*. The impugned order proceeds on the premise that the appellant had neither amended the Import General Manifest (IGM) nor made any request before the proper officer for such amendment and, therefore, could not derive any benefit from the ratio laid down therein. However, I do not find any evidentiary support or factual basis for the aforesaid observations recorded in the impugned order. The appellant has, in fact, placed on record copies of the amended Import General Manifests, which are reproduced hereinbelow for proper appreciation of the factual position: -

- Appeal No. C/75612/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2380953	IGM DATE :	27/06/2024
Line No	10	Subline No	0
BL Number	08A	BL Date	10/06/2024
HBL Number		HBL Date	
Port Shipment	MZMPM	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	2565.821	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	NIL		
Goods Desc	STEAM COAL IN BULK		

Importter's Name & Address :	Consignee's Name & Address :
SARAOGI GLOBAL PVT. LTD. SUITE NO. 212 2ND FLOOR 21 HEMAN BASU SARANI KOLKATA-700001 IND	TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

- Appeal No. C/75613/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2391866	IGM DATE :	29/10/2024
Line No	11	Subline No	0
BL Number	DAN387A	BL Date	14/10/2024
HBL Number		HBL Date	
Port Shipment	ZARCB	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	4472.761	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	EXCESS CARGO		
Goods Desc	STEAM COAL IN BULK		

Importter's Name & Address :	Consignee's Name & Address :
SARAOGI UDYOG PVT LTD 21 HEMANTA BASU SARANI, CENTR POINT, 2ND FLOOR SUITE NO 212 KOLKATA-700001, INDIA	TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

- Appeal No. C/75614/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2391981	IGM DATE :	30/10/2024
Line No	9	Subline No	0
BL Number	DAW460A1	BL Date	13/10/2024
HBL Number		HBL Date	
Port Shipment	ZARCB	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	531.122	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	EXCESS CARGO		
Goods Desc	STEAM COAL IN BULK		

Importter's Name & Address :
SARAOGI UDYOG PVT. LTD.
SUITE NO. 212 2ND FLOOR, 21 HEMA
3ASU SARANI, KOLKATA-700001 IND

Consignee's Name & Address :
TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

- Appeal No. C/75615/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2377479	IGM DATE :	20/05/2024
Line No	13	Subline No	0
BL Number	01PELAGOSV018A	BL Date	04/05/2024
HBL Number		HBL Date	
Port Shipment	ZARCB	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	1886.817	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	EXCESS CARGO		
Goods Desc	STEAM COAL IN BULK OF SOUTH AFRICAN ORIGIN		

Importter's Name & Address :
SARAOGI UDYOG PRIVATE LIMITED
21 HEMANTA BASU SARANI CENTRE
SUITE NO. 212, 2ND FLOOR, KOLKAT
700001 INDIA

Consignee's Name & Address :
TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

- Appeal No. C/75620/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2393422	IGM DATE :	19/11/2024
Line No	6	Subline No	0
BL Number	DAM1215A1	BL Date	06/11/2024
HBL Number		HBL Date	
Port Shipment	ZARCB	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	1591.347	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	EXCESS CARGO		
Goods Desc	STEAM COAL IN BULK OF SOUTH AFRICAN ORIGIN		

Importter's Name & Address :
SARAOGI UDYOG PVT. LTD.
SUITE NO.212 2ND FLOOR 21 HEMAN
BASU SARANI, KOLKATA -700001 IN

Consignee's Name & Address :
TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

- Appeal No. C/75621/2026

Indian Customs EDI System - Imports V1.5
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

Final Print IGM-SEA

IGM NUMBER :	2390844	IGM DATE :	16/10/2024
Line No	13	Subline No	0
BL Number	SSMN240112A	BL Date	29/09/2024
HBL Number		HBL Date	
Port Shipment	ZARCB	Destination Port :	INPRT1
Nature of Cargo	DB	Item Type	OT
Cargo Movement	LC	Dest. Code	
Total Package	1	Package Type	BLK
Gross Weight	4298.25	Unit	MTS
Gross Volume		Unit	
MLO Code		Carrier Code	
Bond No :		Mode of Transhipment	
IMCO Code	ZZZ	UNO Code	ZZZZZ
Marks	EXCESS CARGO		
Goods Desc	STEAM COAL IN BULK		

Importter's Name & Address :
SARAOGI UDYOG PVT LTD
21 HEMANTA BASU SARANI, CENTR
POINT, SUITE NO.212 2ND FLOOR
KOLKATA-700001 INDIA

Consignee's Name & Address :
TO ORDER

I/We declare that the particulars given herein are true and correct .

Signature of Shipping Line/Steamer Agent

8.2. The aforesaid documents unmistakably demonstrate that the Import General Manifests stood amended in accordance with law. The finding recorded by the Commissioner (Appeals) at paragraph 5.7 of the impugned order, therefore, proceeds on an erroneous factual premise and reflects a clear non-consideration of the material available on record. The distinction sought to be drawn from *M/s. Kai International (supra)* is, therefore, wholly misconceived and cannot be sustained.

9. The aforesaid factual premise having been found to be erroneous, I agree with the submission of the appellant that the issue is squarely covered in principle by the decision of this Tribunal in *M/s. Kai International Private Limited v. Commissioner of Customs (Preventive), Bhubaneswar [Final Order Nos. 75440-75441 of 2026 dated 25.03.2026 in Customs Appeal Nos. 75944 & 75945 of 2025 – CESTAT, Kolkata]* wherein it was held as under:

> *"7. I find that the appellant has imported consignments of steam coal and filed the original Bills of Entry Nos. 121907 dated 27.09.2023 and 8085274 dated 30.09.2023 for clearance of the same within the stipulated time. However, after clearance of the said goods, during the Draft Survey, it was found that there was some excess quantity of coal in the port. Subsequently, the appellant had requested for amendment of the IGM and amendment of the earlier Bills of Entry filed by them. The appellant were also willing to pay the Customs duty for the excess coal found in the port area. However, the Proper Officer has disallowed the appellant's request for amendment of the Bills of Entry. Subsequent thereto, the appellant has filed the Supplementary Bills of Entry bearing Nos. 121907 on 27.09.2023 and 8085274 on 30.09.2023.*
>
> *8. From the facts and evidence available on record, I find that the delay in filing the Supplementary Bills of Entry in question is not on account of any fault on the part of the appellant. The*

appellant had filed the original Bills of Entry within the stipulated time-frame and the excess cargo found was part of the same cargo for which the appellant had already filed the Bills of Entry, on 27.09.2023 and 30.09.2023. Late fee chargeable for the delay in filing the Bills of Entry is to be considered judiciously and not imposed in a routine manner. Section 46(3) and the second proviso to the said Section, which deals with the charges for late presentation of Bills of Entry, is reproduced below: -

"(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

…..

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

[Emphasis supplied]

8.1. From a reading of the above proviso to Section 46(3) reproduced above, it is clear that the Proper Officer has the authority to waive the late fee in deserving cases. In the present case, the late filing of the Bills of Entry cannot be attributed due to any act or fault accruing on the part of the appellant. Under such circumstances, considering the bona fides of the appellant, the imposition of late fee in the present cases is found to be unwarranted. Therefore, I find that it is a fit case for waiver of late fee.

9. It is relevant to refer to the guidelines envisaged by the Board in the Circular No. 14/2017-Customs dated 11.04.2017. The relevant portion of the said Circular reads as under: -

"2. In the Circular No. 13/2005-Customs, dated 11.3.2005, CBEC had categorised the amendments carried out in the IGMs as Major and Minor respectively. Further in the amending circular No. 44/2005-Customs, dated 24-11-2005, it was provided that the need for adjudication will arise

only in cases of major amendment involving fraudulent intention or substantial revenue implication. It was the view of the CBEC that the penal action is not initiated mechanically in all cases of IGM amendment and that due consideration may be given to the circumstances of amendment."

9.1. Reference is also made to the Standard Operating Procedure (SOP) dated 19.05.2023 issued by the Commissioner of Customs (Preventive), Bhubaneswar Commissionerate on delivery of excess dry bulk cargo, wherein it is mentioned that the levy of applicable fine/penalty shall be applicable as 'deemed fit' by the Jurisdictional Officer. The same should not be imposed in a routine/mechanical manner.

10. A similar issue relating to penalty charges for late filing of Bills of Entry has been considered by the Tribunal in the case of Blueleaf Trading Company v. Commissioner of G.S.T. & C.Ex., Tiruchirapalli [Final Order Nos. 40772-40780 of 2019 dated 08.05.2019 in Customs Appeal No. 42670 of 2018 & ors. – CESTAT, Chennai]. The relevant observations in the aforesaid decision are reproduced below: -

"5.2 Considering the difficulties faced by the importers which had resulted in delayed presentation of Bill/s-of-Entry, the CBEC issued Instructions from time to time. One of such Instructions, Instruction No. 12/2017-Customs dated 31.08.2017 had instructed the officers jurisdictional Additional/Joint Commissioners of Customs to exercise power judiciously. The above instruction of the Board was clarified vide Standing Order No. 01/2017 dated 06.09.2017 by the Chief Commissioner of Customs (Preventive), Tiruchirappalli, wherein it was even suggested to waive off the late charges in respect of some of the cases specified therein.

6. Subsequently, vide Notification No. 36/2018-Customs (N.T.) dated 11.05.2018 the 'Bill-of-Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018' was introduced. Regulation 4 of the Regulations (supra) deals with the delayed filing of Bill-of-Entry and the consequence thereto and proviso to Sub-Clause (3) authorizes the proper officer to even waive off the charges if he was satisfied with the reasons for the delay. It is quite clear that the provisions of Section

46 ibid nowhere mandate charging of late fee for the delayed filing of Bill-of-Entry as fee is charged subject only to the 'non-satisfaction' of the proper officer and the Board's Instructions, some of which are referred to herelnabove, also authorize the proper officer to walve off subject to his satisfaction.

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7.3 The impugned order referring to this Order-in-Original dated 08.11.2017, has also not questioned the bona fides of the appellant. In his order, however, the Commissioner (Appeals) has only directed the adjudicating authority to charge the assessee the late fee from the date of agreement made between the shipper and the appellant, which was nobody's case and not even as per law. As discussed above, Section 46 ibid authorizes the proper officer to collect late fees subject to his 'non-satisfaction' of the cause shown and there is no via media. The appellant admittedly is not the first importer, but a saviour who came forward at a later stage. The Act only contemplates charging of late fee from the importer per se. It is clear from the impugned order as well as that of the Commissioner (Appeals) that there was no reason/question of 'non-satisfaction' as to the reasonable cause shown by the appellant. In the above factual background therefore, it is very difficult to accept as to how the Order-in-Original came to be passed against a Customs Broker just because it made a request. Appellant is clearly not the first importer, there is request for amendment in IGM on record, allowed by the Revenue after collecting requisite fees and these are clearly post-import developments. The subsequent developments, as observed supra, were perhaps necessitated because of the goods being perishable. Clearly, no mala fide is found in the above developments by the Revenue and therefore, it can be safely assumed that the Revenue was otherwise satisfied with 'sufficient cause'.

8. For the above reasons, I am of the view that the impugned order is not sustainable and hence, the same is set aside.

9. The appeals are allowed.”

10.1. I find that the ratio of the decision cited supra is squarely applicable to the facts of the case on hand.

11. In view of the foregoing, I hold that the late fees imposed on the appellant in the present cases are not sustainable. Consequently, I set aside the same."

9.1. The above legal position has also been subsequently reaffirmed by the Division Bench of this Tribunal in *M/s. Agarwal Coal Corporation Ltd. v. Commissioner of Customs (Prev.), Bhubaneswar [Final Order Nos. 75694-75699 of 2026 dated 16.06.2026 in Customs Appeal No. 76044 of 2024 & ors. – CESTAT, Kolkata]* wherein it was observed as follows: -

"9. From the facts and evidence available on record, we find that the delay in filing the Supplementary Bills of Entry in question is not on account of any fault on the part of the appellant. The appellant had filed the original Bills of Entry within the stipulated time-frame and the excess cargo found was part of the same cargo for which the appellant. had already filed the Bills of Entry. Late fee chargeable for the delay in filing the Bills of Entry is to be considered judiciously and not imposed in a routine manner. Section 46(3) and the second proviso to the said Section, which deals with the charges for late presentation of Bills of Entry, is reproduced below:

"(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

...

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient *cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.*

9.1. From a reading the above proviso to Section 46(3) reproduced above, it is clear that the Proper Officer has the authority to waive the late fee in deserving cases. In the present case, the late filing of the Bills of Entry cannot be attributed due to any act or fault accruing on the part of the appellant. Under such circumstances, considering the bona fides of the appellant, the imposition of late fee in the present cases is found to be unwarranted. Therefore, I find that it is a fit case for waiver of late fee.

10. It is relevant to refer to the guidelines envisaged by the Board in the Circular No. 14/2017-Customs dated 11.04.2017. The relevant portion of the said Circular reads as under:

....

10.1. Reference is also made to the Standard Operating Procedure (SOP) dated 19.05.2023 issued by the Commissioner of Customs (Preventive), Bhubaneswar Commissionerate on delivery of excess dry bulk cargo, wherein it is mentioned that the levy of applicable fine/penalty shall be applicable as 'deemed fit' by the Jurisdictional Officer. The same should not be imposed in a routine/mechanical manner.

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13. We also observe that this Bench in the case of Kai International Pvt Ltd Vs CC (Prev), Odisha vide Final Order No.75440-75441/2026 dated 25.03.2026, on identical matter, has set aside. the late fee charged on the importers.

...

16. As a result, we set aside the impugned orders qua imposition of late fees on the appellant herein and allow the appeals, with consequential relief, if any, as per law.”

9.2. It was also informed that an identical issue involving the very same appellant had earlier come up for consideration before this Tribunal and decided vide *Final Order Nos. 75874-75876 of 026 dated 13.07.2026 in Customs Appeal Nos. 75217 to 75219 of 2026*, wherein, after considering the ratio laid down in *M/s. Kai International (supra)*, the levy of late filing fee in identical circumstances was held to be unsustainable.

10. In the absence of any distinguishing feature or contrary precedent, I do not find any reason to deviate from the view already taken by the coordinate Bench on an identical issue. In fact, the Revenue has not been able to point out any material circumstance warranting a departure from the settled position of law. Respectfully following the ratio laid down in the aforesaid decisions, therefore, I hold that the levy of late filing fee under Section 46(3) of the Customs Act, 1962 in the facts of the present case is unwarranted and legally unsustainable and accordingly, the same is hereby set aside. Consequently, the impugned common Order-in-Appeal cannot be sustained and is liable to be set aside.

11. In view of the foregoing discussion, the impugned order stands set aside. Consequently, the late filing fee imposed upon the appellant is dropped.

12. The appeals are accordingly allowed, with consequential relief, if any, as per law.

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

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd