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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75583 of 2026

(Arising out of Order-in-Appeal No. 316/CUS/CCP/2025 dated 27.03.2026 passed by the Commissioner (Appeals), G.S.T., C.X. & Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Visma Global Trading Private Limited **: Appellant**
Plot No. 454, 2nd Part, Vijayachandrapur,
Tarinigada, Atharbanki, Paradip,
Jagatsinghpur, Odisha – 754 141

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Bhubaneswar Commissionerate,
Central Revenue Building, Rajaswa Vihar,
Bhubaneswar, Odisha – 751 007

APPEARANCE:

Shri Indranil Banerjee, Advocate, for the Appellant

Shri Tariq Sulaiman, Authorized Representative, for the Respondent

CORAM:

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

FINAL ORDER NO. 75925 / 2026

DATE OF HEARING / DECISION: 17.07.2026

ORDER:

The present appeal has been preferred by M/s. Visma Global Trading Pvt. Ltd. (hereinafter referred to as the "appellant") challenging the Order-in-Appeal No. 316/CUS/CCP/2025 dated 27.03.2026, passed by the Commissioner of Customs (Appeals), whereby the levy of late filing fee under Section 46(3) of the Customs Act, 1962 in respect of a Supplementary Bill of Entry filed by the appellant came to be upheld.

2. Briefly stated, the facts of the case are that the appellant is engaged in the business of import and trading of coal and, during the relevant period, imported a bulk consignment of PCI Coal of Russian origin through the vessel "MV AC GLORIOUS". For clearance of the manifested quantity of 37,500 MTs of coal covered under Import General Manifest (IGM) No. 2378069 dated 27.05.2024, the appellant filed Bill of Entry No. 3756862 dated 31.05.2024. The said Bill of Entry was duly assessed by the Customs authorities and the manifested quantity was cleared upon payment of the applicable customs duty, without any dispute as regards the quantity, classification or valuation of the imported goods.

2.1. Upon clearance of the manifested quantity, it was noticed that an excess quantity of 696.896 MTs of PCI Coal still remained lying within the Port area. In order to regularize the clearance of such excess cargo, the appellant, in terms of Public Notice No. 05/2023 dated 19.05.2023 and the Standard Operating Procedure issued thereunder by the Commissioner of Customs (Preventive), Bhubaneswar, obtained the requisite permission from the proper officer and, after joint stack survey, filed Supplementary Bill of Entry No. 7290533 dated 17.12.2024 for clearance of the said excess quantity.

2.2. The above Supplementary Bill of Entry was duly assessed to customs duty. However, while so assessing the same, the Customs Electronic Data Interchange (ICEGATE) system automatically imposed a late filing fee of Rs.10,06,141/- under Section 46(3) of the Customs Act, 1962 by computing the period of delay with reference to the date of filing of the original Import General Manifest. Owing to business exigencies, the appellant deposited the said late filing fee and cleared the goods.

2.3. It appears from the records that the appellant had approached the Ld. Assistant Commissioner, Paradeep Customs Division, verbally praying for waiver of the late filing fee imposed on them in respect of the impugned goods, but no favourable response was obtained. No speaking order as such was passed by the said authority in this regard.

3. Being aggrieved by the levy of the said late filing fee, the appellant preferred an appeal before the Ld. Commissioner (Appeals), G.S.T., C.X. and Customs, Bhubaneswar, who, vide the impugned Order-in-Appeal dated 27.03.2026, rejected the appeal and upheld the levy of late filing fee.

3.1. Aggrieved thereby, the appellant has filed the instant appeal.

4. 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 PCI 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 Bill of Entry was 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 aforesaid 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]*. He would further submit that the finding recorded by the Ld. Commissioner (Appeals) in the impugned order that no amendment of the Import General Manifest (IGM) had been carried out, thereby indicating that the excess cargo did not form part of the original consignment, is factually incorrect. It is pointed out that the appellant has placed the amended IGM on record, which clearly establishes that the excess quantity formed part of the original import itself. Consequently, it was contended that the findings recorded in the impugned order are unsustainable and the ratio laid down in *Kai International (supra)* and *Agarwal Coal Corporation Ltd. (supra)* squarely applies to the facts of the present case.

5. The Ld. Authorized Representative of the Revenue appearing before me reiterates the findings in the impugned order and argues that no valid documentary evidence could be placed on record by the appellant to substantiate their claim that the excess cargo could be considered as part of the same transaction consignment.

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

7. I find that the short issue which falls for consideration in the present appeal is whether the levy of late filing fee under Section 46(3) of the Customs Act, 1962 in respect of the Supplementary Bill of Entry filed by the appellant for clearance of excess quantity of imported cargo is legally sustainable in the facts and circumstances obtaining in the present case, or not.

8. At the outset, I find that the dispute involved herein is no longer res integra. Before adverting to the decisions governing the issue, however, it would be appropriate to deal with the principal objection of the Revenue, as has also been recorded by the Ld. Commissioner (Appeals) in the impugned order, namely, that the excess quantity did not form part of the original consignment. I find myself unable to subscribe to the aforesaid view. The imported goods in the present case comprise PCI Coal carried as bulk cargo, which inherently possesses the characteristic of moisture absorption and consequential variation in weight. The occurrence of a marginal excess quantity upon discharge and clearance is a well-recognised and accepted incident in the handling of such bulk cargo and, by itself, would not render such quantity distinct from or alien to the original imported consignment for the purposes of levy of late filing fee. The above allegations of the Revenue are therefore found to be devoid of merit.

8.1. On the other hand, the appellant has, in support of its stand, placed on record the amended Import General Manifest, which is reproduced hereinbelow for proper appreciation of the factual position: -

16/12/2024 **Indian Customs EDI System - Imports V1.5** OPSSIMPORTS
PARADEEP PORT CUSTOM HOUSE PARADEEP ORISSA 754142 (INPRT

SUPPLEMENT CARGO CHECKLIST

Amend Job Number : 1439298 **Amend Job Date : 16/12/2024**

IGM No : 2378069 **IGM Date : 27/05/2024**

Line No	: 11	BL Number	: 1A	BL Date	: 09/05/2024
Subline No	:0	HBL Number	:	HBL Date	:
Port Shipment	: RUVNN	Cargo Mov.	: LC	Port Dest	: INPRT1
Nature Carg	: DB	Dest. Code	:	Total Pkg.	: 1
Mode of Tran.	:	MLO Code	:	Item Type	: OT
Package Type	: BLK	Gross Weight	: 696.896	Unit	: MTS
Gross Volume	: 0	Unit	:	Carr. Code	:
Bond No	:	UNO Code	: ZZZZZ	IMO Code	: ZZZ

Goods Desc : PCI COAL IN BULK Marks :EXCESS CARGO ORDER NO. VIII-CUS

Importter's Name & Address :
VISMA GLOBAL TRADING PRIVATE
LIMITED
.

Consignee's Name & Address :
TO ORDER

I/We declare that the requistion for Supplementary additions of Cargo lines given herein are true and correct .

Signature of Shipping agent

9. It is trite law that Section 46(3) of the Customs Act, 1962 is attracted only where there is a failure to present the Bill of Entry within the prescribed period without sufficient cause. In the facts of the present case, the appellant had admittedly filed the original Bill of Entry covering the entire manifested quantity well within the stipulated period, even prior to the arrival of the vessel. It is also on record that the impugned Supplementary Bill of Entry came to be filed only after the excess quantity was noticed during the course of clearance operations and upon the requisite permission having been granted by the Customs authorities in accordance with the prescribed procedure. In such circumstances, I am of the considered view that the levy of late filing fee cannot be imposed mechanically, ignoring the bona fide conduct of the appellant and the peculiar nature of the transaction.

10. The above issue has already been analysed by this Tribunal in the case of *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.*
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> *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."

10.1. The aforesaid legal position has also been 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."

11. In view of the discussion in the preceding paragraphs and by applying the ratio laid down in the decisions cited supra, 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 legally unsustainable and consequently, the same is set aside. The impugned Order-in-Appeal thus cannot be sustained and is liable to be set aside.

12. Accordingly, by setting aside the impugned order, the appeal is allowed, with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

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

Sdd