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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 77106 of 2019

(Arising out of Order-in-Original No. KOL/COMMISSIONER/PORT/16/2019 dated 14.06.2019 passed by the Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001)

Mohammed Muzafar Ezaz **: Appellant**
Proprietor of M/s. M.N. Enterprise,
22/5, Sahapur Colony, New Alipore,
1st Floor, Plot No. 38,
Kolkata – 700 053

VERSUS

Commissioner of Customs (Port) **: Respondent**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri S.K. Mohapatra, Advocate,
Shri Subhrabrata Chattaraj, Consultant,
Shri Arijit Goswami, Advocate,
For the Appellant

Shri Subrata Debnath, Authorized Representative,
Shri Faiz Ahmed, Authorized Representative,
For the Respondent

CORAM:

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

FINAL ORDER NO. 75950 / 2026

DATE OF HEARING: 24.06.2026

DATE OF DECISION: 29.07.2026

ORDER: [PER SHRI ASHOK JINDAL]

The present appeal has been preferred by Mohammed Muzafar Ezaz, Proprietor of M/s. M.N. Enterprise, against Order-in-Original No. KOL/COMMISSIONER/PORT/16/2019 dated 14.06.2019, passed by the Commissioner of Customs (Port), Kolkata, to the extent it imposes penalty upon the appellant under Section 112(a) of the Customs Act, 1962.

2. The facts of the case are that the appellant was one amongst several noticees to a common Show Cause Notice alleging improper importation of components of electrical tricycles in Completely Knocked Down (CKD) condition by M/s. Zeniak Innovation India Ltd. through alleged mis-declaration and misclassification of the imported goods as parts/components of electrical tricycles with the object of evading customs duty. Insofar as the present appellant is concerned, the allegation was not that he had himself imported the impugned goods, but that he had allegedly abetted the imports undertaken by M/s. Zeniak Innovation India Ltd. by permitting use of his Import Export Code and engaged in acts of omissions and commissions therefore, which had resulted in loss of revenue. On the aforesaid allegations, the adjudicating authority, vide the impugned Order-in-Original dated 14.06.2019, imposed penalty of Rs.4,00,000/-upon the appellant under Section 112(a)(ii) of the Customs Act, 1962.

3. It is pertinent to note that subsequently, the said Order-in-Original dated 14.06.2019 came to be challenged before the Hon'ble Calcutta High Court by M/s. Zeniak Innovation India Ltd. After due process of law, the matter came to be remanded by the Hon’ble High Court, for fresh de novo adjudication. Pursuant thereto, a de novo Order-in-Original No. KOL/CUS/PR. COMMISSIONER/PORT/ADJN/07/2025 dated 21.02.2025 also came to be passed, whereby adjudication was confined to M/s. Zeniak Innovation India Ltd. and its Directors, while recording that "the earlier adjudication order would continue to operate in respect of the remaining noticees", which would include the present appellant.

3.1. The appeals preferred by M/s. Zeniak Innovation India Ltd. and its Directors against the above de novo adjudication order, together with the connected appeals filed by the Revenue, have since been finally decided by this Tribunal vide Final Order Nos. 75818-75823/2026 dated 02.07.2026 in Customs Appeal Nos. C/75544, 75304, 75305/2026 and C/75856-75858/2025, whereby the appeals of M/s. Zeniak Innovation India Ltd. and its Directors were allowed and the Revenue's appeals dismissed.

4. Aggrieved by the penalty imposed upon him under the original adjudication order dated 14.06.2019, the appellant is before us.

5. The Ld. Counsel appearing for the appellant submitted that the penalty imposed upon the appellant is entirely consequential and derivative in nature, the sole allegation against him being that he had allegedly abetted the imports undertaken by M/s. Zeniak Innovation India Ltd. It is contended that the very foundation of such allegation no longer survives in view of the subsequent decision of this Tribunal dated 02.07.2026 in the appeals preferred by M/s. Zeniak Innovation India Ltd. and its Directors, whereby this Tribunal has categorically held that the imported goods did not possess the essential character of complete electrical tricycles in CKD condition and consequently rejected the Revenue's allegations of misclassification, misdeclaration, confiscation, differential duty and penalties. It is submitted that once the principal proceedings themselves have culminated in favour of M/s. Zeniak Innovation India Ltd., there remains no subsisting basis for sustaining the allegation that the appellant had abetted any improper import so as to attract

penalty under Section 112(a) of the Customs Act, 1962. Consequently, it is prayed that the impugned penalty be set aside on this ground itself.

5.1. Alternatively, the Ld. Counsel for the appellant also contended that the very foundation of the impugned original Order-in-Original dated 14.06.2019, from which the present appeal arises, no longer survives in law as the same stood set aside by the Hon'ble Calcutta High Court insofar as the principal noticee, M/s. Zeniak Innovation India Ltd. and its Directors were concerned, with a direction for de novo adjudication. According to the Ld. Counsel, once the original adjudication proceedings had been set aside and replaced by a fresh order, the earlier Order-in-Original would not survive against the remaining noticees merely on the basis of the certain observations contained in the de novo order. Thus, he submitted that the penalty imposed on the appellant herein is even otherwise unsustainable on this count.

6. The Ld. Authorized Representative of the Revenue reiterates the findings contained in the impugned order and prays for dismissal of the appeal.

7. Heard the parties and considered their submissions.

8. We find that in this case, the present appellant was not proceeded against as the importer of the impugned goods. The allegation against him is confined to alleged abetment of the imports undertaken by M/s. Zeniak Innovation India Ltd. It is thus evident that the proceedings against the present appellant are wholly dependent upon the existence of the principal contravention alleged against M/s. Zeniak Innovation India Ltd.

9. It is an admitted position that the very same allegations arising out of the common Show Cause Notice subsequently came up for consideration before this Tribunal in the appeals preferred by M/s. Zeniak Innovation India Ltd. and its Directors against the de novo adjudication order dated 21.02.2025, passed in the same proceedings, and vide Final Order Nos. 75818-75823/2026 dated 02.07.2026 in Customs Appeal No. C/75544/ 2026 & ors., this Tribunal, after consideration of the rival contentions as well as the facts and circumstances of the case, held that held that the components imported, being devoid of the electric motor and battery, did not possess the essential character of complete electrical tricycles so as to attract Rule 2(a) of the General Rules for Interpretation. Consequently, it was held that the goods had been correctly declared as parts/components and that the dispute, at best, pertained to tariff classification without any element of mis-declaration. On such findings, this Tribunal concluded that the goods were not liable to confiscation, the differential duty demand was unsustainable, the penalties imposed upon M/s. Zeniak Innovation India Ltd. and its Directors under Sections 112(a) and 114AA of the Customs Act, 1962 were liable to be set aside. The Revenue's appeals seeking restoration of the proceedings in respect of the past Bills of Entry were also dismissed.

10. In view of the above, we find that the principal allegations against M/s. Zeniak Innovation India Ltd. themselves having been rejected and the very foundation of the Revenue's case having ceased to exist, the allegation that the present appellant had abetted such alleged improper importation cannot independently survive. Once the principal proceedings

themselves have culminated in favour of the importer, no separate basis remains for sustaining penal consequences against a person alleged merely to have aided or abetted such imports.

11. In these circumstances, we hold that the penalty imposed upon the present appellant under Section 112(a)(ii) of the Customs Act, 1962 cannot be sustained in the eyes of law.

12. We observe that the appellant has also taken the alternate plea that the impugned order in respect of the appellant herein does not survive in law as the same stood set aside by the Hon'ble Calcutta High Court for de novo adjudication. Having already held that the penalty imposed upon the appellant is liable to be set aside as per the discussions hereinabove, we do not find it necessary to examine the said contention of the appellant.

13. In view of the above discussion, the penalty imposed upon Md. Muzafar Ezaz under Section 112(a)(ii) of the Customs Act, 1962 is dropped. The impugned order dated 14.06.2019, qua imposition of penalty on Md. Muzafar Ezaz under Section 112(a)(ii) of the Act, stands set aside.

15. In these terms, the appeal is allowed.

(Order pronounced in the open court on **29.07.2026**)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Sdd