CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Customs Appeal No. 40052 of 2026

(Arising out of Order-in-Original No. 113395/2025 dated 29.05.2025 passed by the Principal Commissioner Customs, Chennai II Preventive Commissionerate, Custom House, NO.60, Rajaji Salai, Chennai 600 001)

Dahnay Logistics Pvt. Ltd. **...Appellant**
KGN Towers, 9th Floor, B – Wing
No.62, Ethiraj Salai
Chennai 600 105

Versus

Commissioner of Customs **...Respondent**
Chennai II Preventive Commissionerate
Custom House
No.60, Rajaji Salai
Chennai 600 001

APPEARANCE:

For the Appellant : Shri. Hari Radhakrishnan, Advocate for the Appellant
For the Respondent: Shri. N. Satyanarayana, Authorised Representative

CORAM:

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No.40945/2026

DATE OF HEARING: 07.08.2026
DATE OF DECISION: 20.08.2026

The appeal has been preferred by the Appellant assailing the Order in Original No.113395/2025 dated 29.05.2025, being aggrieved by a penalty of Rs.4,00,000/- (Rupees Four Lakhs only) under section 117 of the Customs Act, 1962 imposed on the appellant by the Adjudicating Authority while permitting the re-export of the subject consignment of Mono Ammonium Phosphate, Technical Grade to the same supplier.

2. The relevant facts are that M/s. PGP International, Pte Ltd., Singapore had shipped a consignment of Mono Ammonium Phosphate, Technical grade, (raw material for fertilizer) to M/s. Greenstar Fertilizers Limited, Chennai. The said consignment was shipped from the Loading Port, Port Klang, Malaysia to the Port of Discharge, namely, Tuticorin, India. The bill of Lading indicated the appellant, premised at Tuticorin, as the Agent of the consignee. The subject consignment had arrived at the Kattupalli Port which was to be used as transhipment port to ship the aforementioned consignment to the Port of Discharge, i.e., Tuticorin, through coastal vessel.

3. It is stated that owing to the non-availability of the coastal vessel for transporting the subject goods from Kattupalli Port to Tuticorin Port and in view of the accumulating detention and demurrage charges, the shipper, i.e. M/s. PGP International Pte. Ltd, Singapore decided to re-export the subject goods. Accordingly, the appellant made representations dated 05.02.2025 and 07.04.2025 to the Customs officers for the re-export of the subject goods, which has culminated in the impugned order which has, while permitting the re-export, imposed the said penalty.

4. Shri. Hari Radhakrishnan, Ld. Advocate, appearing for the appellant contended that the Adjudicating Authority has imposed the penalty without even alleging any contravention made by the appellant under the Customs Act, 1962. The appellant had paid the said penalty under protest in order to re-export the goods expeditiously. However, the Customs Department had granted the let export order for the re-export of the subject goods only on 22-08-2025.

5. Ld. Counsel contends that, without alleging any violation of the Customs Act and in spite of finding that the appellant’s request was

bonafide, the Adjudicating Authority has imposed the maximum penalty imposable under Section 117 of the Act without stating any reason in justification. Reliance is placed on the ***Final order No.86153/2025 dated 29.07.2025 in the case of M/s. Ajanta Pharma Ltd v. CC (Aircargo) v. CC (Aircargo Export), Mumbai, Final Order No.A/86143/2025 dated 16.07.2025 in the case of M/s. Pragya Oceanic Shippers Pvt Ltd v. CC (Import), Mumbai (Aircargo Import)*** and ***the Final Order No.A/70602/2017-SM(BR) dated 30.06.2017 in the case of Vijender Singh CHA v. CC & CE, Noida*** in support of his contentions.

6. Ld. Counsel further contends that though the Adjudicating Authority has cited a circular No.100/2003 dated 28.11.2003, he has failed to exercise his discretion and even the said circular empowers him to permit re-export without imposing any penalty.

7. He would submit that the Customs Department, despite the appellant having paid the penalty so as to expeditiously re-export the subject goods, has further continued to hold on to the goods and had not allowed the appellant to re-export, with the let export being finally granted only on 22-08-2025. It is submitted that the continued detention of the subject goods by the Customs Department has resulted in accumulation of high demurrage and detention charges for no fault of the Appellant and that therefore the Appellant be provided with a detention and demurrage waiver certificate in terms of Regulation 6(1)(1) of the Handling of Cargo in Customs Areas Regulations, 2009. Reliance is placed on the decisions in ***S.G. International v CC, Nhava Sheva-I, 2021 (276) ELT 716 (Mad), Empire Exports v CC, Tuticorin, 2021 (376) ELT 716 (Mad), K. Steamship Agencies Pvt Ltd v. Balaji Dekors, (2024) 22 Centax 212 (Mad), Sujana Steels Ltd v. CC & CE (Appeals), Hyderabad, 2002 (141) ELT 343 (A.P),*** and ***the Order dated 27.07.2026 of the Hon'ble High Court of Madras in W.P. No.2050 of 2026 in the case of S.R.***

Rajarajendran v. The Deputy Commissioner of Customs (DIU). Ld. Counsel prays that the impugned order be set aside and the appeal allowed with directions to the Customs Department to provide the Appellant with a demurrage waiver certificate till the Let Export Order was provided for re-export of the subject goods.

8. Shri. N. Satyanarayana, Ld. Authorised Representative, reiterated the findings in the impugned order.

9. Heard both sides and perused the materials available on record.

10. The sole issue that arises for determination is whether the penalty imposed by the Adjudicating Authority is tenable, and if not, as to what orders.

11. It is appropriate to notice Section 117 of the Customs Act, 1962, which is as below:

"**117. Penalties for contravention, etc., not expressly mentioned.**

<u>Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply</u>, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to penalty not exceeding four lakh rupees." (emphasis supplied).

12. The section makes it clear that a penalty is not automatic and specific conditions only attract its imposition. Therefore, if a person contravenes any provision of the Act, or abets such contravention of that provision, or if any provision of the Act mandates its compliance as the duty of a person which he fails to comply, the primary and essential condition to attract the penalty preliminarily gets satisfied. However, it is again caveated that only where no express penalty for such contravention or failure is not provided elsewhere; then alone such contravention or failure results in the

person who has so contravened or failed to comply, being liable to such penalty. Even then, the statutory limit is set at four lakh rupees.

13. Bearing such mandate of Section 117 in mind, on an examination of the impugned order, it is seen that in the narration of facts the Adjudicating Authority notes the documents submitted by the appellant. He has not indicated that they are found wanting on any aspect. The Adjudicating Authority has also noted the ascertainment from the EDI System that there is no Bill of Entry filed for the said consignment at Kattupalli Port. It is further observed that 100% examination of the subject cargo, which is a pre-requisite for considering re-export has been carried out and the goods were found to be as per the invoice and packing list. It is stated that nothing objectionable was found.

14. This leads to the scrutiny of the discussion and findings recorded in the impugned order and such discussion and findings, along with the concluding order is reproduced below:

> "DISCUSSION AND FINDINGS
>
> 6. I have gone through the case/file and letters submitted by M/s Dahnay Logistics Private Limited. I find that the impugned consignment which has been manifested for Tuticorin Port was supposed to be delivered at Tuticorin Port, through coastal vessel via transshipment from the Kattupalli Port. Further, I find that M/s Dahnay Logistics had submitted that the unavailability of the coastal vessels at the Kattupalli Port to ship the subject consignment to the manifested port Le. Tuticorin Port, is the main reason for seeking re-ship/re-export of the subject consignment. Further, I find that there is no hold on the subject consignment as the No objection Certificates have been obtained from the DIU, the UCC and the SIIB sections. Therefore, I find that the request by the Agent and the shipper to accept the subject consignment is a bona-fide request and thus a considerable request.

7. As per Circular No. 100/2003 dated 28.11.2003, the Commissioner may use his discretion and allow re-export without the requirement of a "No Objection Certificate" from the Reserve Bank of India, on payment of a nominal penalty or without any penalty as he deems fit, provided that he is satisfied that the goods have been imported as a result of Bonafide Mistake and contrary to the importer's instructions. Circular No. 04/2015-Cus dated 20.1.2015 stipulates that the requests for re-export of imported goods may be received when the said goods are destinated for elsewhere, but which are inadvertently imported at a particular Customs station and that the permission for re export may be granted on merit by the officer concerned as per the adjudication powers.

8. I find that the consignment was manifested for Tuticorin Port via Kattupalli Port as transhipment port but could not be transhipped due to unavailability of the coastal vessel. Further, I find that the shipper M/s PGP International, Pte. Ltd. has also requested the return of the subject consignment back to him and the consignee i.e. M/s. Greenstar Fertilizers Limited, has also given No Objection in returning the said consignment as the same is in transit only.

9. I also find that the subject consignment is in transit only and lying at the IGM stage only. I also find that, as per Circular No. 100/2003, an NOC from RBI is not required for considering the request for re-export of the cargo.

10. In view of the above facts and circumstances, I pass the following order:

ORDER

I, permit the re-export of the subject consignment i.e. **104.416 MT Mono** Ammonium Phosphate, Technical Grade, totally valued at **Rs.91,58,883/-** imported vide B/L No.**DAHPKGTUT2420519 dt.09.12.2024**, to the same supplier M/s PGP International, Pte. Ltd., 7500A, Beach Road, Unit 09-314, The Plaza, Singapore, through Port Klang (Load Port), Malaysia which have been imported into India, with a penalty of Rs **400000/- (Rupees Four lakhs only)** under section 117 of Customs Act, 1962 on M/s Dahnay Logistics Private Limited.

Signed by

Date: 29-05-2025 18:21:50

PRINCIPAL COMMISSIONER OF CUSTOMS
PREVENTIVE COMMISSIONERATE, CHENNAI"

15. As can be seen from the above, what is conspicuous by its absence is any finding by the Adjudicating Authority that the appellant has contravened any provision of the Act, or that the appellant has abetted any such contravention of any provision or that the appellant has failed to comply with any provision with which the appellant was duty bound to comply. On the contrary, not only is there a recording of facts detailing the documents submitted and also that the pre-requisite 100% examination of the subject cargo has not resulted in anything objectionable, but also a finding that the appellant's request is a bonafide one. The Adjudicating Authority has found that the consignment was manifested for Tuticorin Port via Kattupalli Port as transshipment port but could not be transhipped due to unavailability of the coastal vessel, thus vindicating the reason provided by the appellant. The Adjudicating Authority has also found that there is no hold on the subject consignment as the No objection Certificates have been obtained from the DIU, the UCC and the SIIB sections. The Adjudicating Authority has further found that the shipper has also requested for the return of the subject consignment, that the requisite No objection from the consignee is available and also that as per Circular No.100/2003 no NOC from RBI was required.

16. The scheme of Customs Act, on consideration, would indicate that the liability on account of an import intended for home consumption is linked with the definition of import under Section 2(23) read with the filing of a Bill of Entry under Section 46, and Section 15 that provides for the date of determination of rate of duty and tariff valuation of imported goods. Hence, till such time the goods are cleared for home consumption under Section 47, they remain subject to the statutory customs framework, including custody under Section 45. The Adjudicating Authority has found that the subject consignment is in transit and lying at the IGM stage only. Where the goods have not been cleared for home consumption or warehoused, the Act also contains provisions governing their export.

17. The Adjudicating Authority has also relied on the Circular No.04/2015-Cus as it accords sanction for the officer to grant permission to re-export as per the adjudication powers.

18. It is the exercise of the adjudication powers as per Section 122 of the Act, by the Adjudicating Authority in adjudging penalty in the instant case that is being further scrutinized. It is seen that the Adjudicator's own findings establish that the Appellant's actions are bona fide, that 100% examination of the goods disclosed nothing objectionable, that the proposed transshipment failed because of the non-availability of a coastal vessel, and that the necessary no-objection from the consignee and other requisite quarters were available. It is also pertinent that resultantly there is no finding of any contravention of the Customs Act or of any failure to comply with a statutory requirement. Hence the permission to re-export granted cannot be faulted on any count.

19. However, the Adjudicating Authority has imposed the maximum penalty of Rs. Four lakhs stipulated in Section 117 of the Act. The power to impose a penalty under Section 117 is not an authority to mechanically impose the statutory ceiling. The quantum of penalty must bear a reasonable nexus to the nature and gravity of the contravention, if any, established on record; and if not, the penalty imposed becomes untenable. The decisions relied upon by the Appellant, as noticed above, also support this conclusion.

20. At this juncture, it is apposite to note that the Hon'ble Supreme Court in its Judgement in ***Hindustan Steel Ltd v. State of Orissa, 1978 (2) ELT (J 159) (SC)***, while dealing with a situation where the authorities imposed a penalty on the company for failure to register as a dealer, had laid down the law as to how the discretion for imposing penalty for technical or venial breach of legal provisions is to be exercised, holding as under:

"**An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.** Those in charge of the affairs of the Company in failing to register the Company as a dealer acted in the honest and genuine belief that the Company was not a dealer. Granting that they erred, no case for imposing penalty was made out. **(emphasis supplied)**

21. It is also apposite to note that the Hon'ble Supreme Court in ***Sant Raj and another v. O.P.Singla and others, (1985)2 SCC 349,*** has held as under:

"**Whenever, it is said that something has to be done, within the discretion of the authority, then that something has to be done, according to the rules of reason and justice and not according to private opinion, according to law and not humour. It is to be not arbitrary, vague and fanciful but legal and regular and it must be exercised within the limit to which an honest man to the discharge of his office ought to find himself. (See Sharp v. Wekfield [1891] A.C.173. Discretion means sound discretion guided by law. It must be governed by rule, not by humour, it must not be arbitrary, vague and fanciful. (See S.D. Jaisinghani v. Union of India and Ors. [1967] 65 ITR 34 (SC)**"

22. Again, the Hon'ble Supreme Court in ***Bangalore Medical Trust v. B.S.Muddappa and others, (1991) 4 SCC 54***, was examining whether the discretion exercised by the Bangalore Development Authority under Section 19(4) is in violation or in accordance with the norm provided in law. The Apex Court has held as under:

"46….. **No one howsoever high can arrogate to himself or assume without any authorisation express or implied in law a discretion to ignore the rules and deviate from rationality by adopting a strained or distorted interpretation as it renders the action ultra vires and bad in law. When the law requires an authority to act or decide, 'if it appears to it necessary' or if he is 'of opinion that a particular act should be done' then it is implicit that it should be done objectively, fairly and reasonably.** Decisions affecting public interest or the necessity of doing it in the light of guidance provided by the Act and rules may not require intimation to person affected yet the exercise of discretion is vitiated if the action is bereft of rationality, lacks objective and purposive approach. **The action or decision must not only be reached reasonably and intelligibly but it must be related to the purpose for which power is exercised.**….

47. ….Sub-section (4) of Section 19 not only defines the scope and lays down the ambit within which the discretion could be exercised but it envisages further the manner in which it could be exercised. Therefore, any action or exercise of discretion to alter the scheme must have been backed by substantive rationality flowing from the Section. Public interest or general good or social betterment have no doubt priority over private or individual interest but it must not be a pretext to justify the arbitrary or illegal exercise of power. It must withstand scrutiny of the legislative standard provided by the statute itself. The authority exercising discretion must not appear to be impervious to legislative directions……..**The executive or administrative authority must not be oblivious that in a democratic set up the people or community being sovereign the exercise of discretion must be guided by the inherent philosophy that the exerciser of discretion is accountable for his action. It is to be tested on anvil of rule of law and fairness or justice particularly if**

> **competing interests of members of society is involved. Was this adhered to by any of the authority? Unfortunately not.**
>
> 48. Much was attempted to be made out of exercise of discretion in converting a site reserved for amenity as a civic amenity. **Discretion is an effective tool in administration. But wrong notions about is results in ill-conceived consequences. In law, it provides an option to the authority concerned to adopt one or the other alternative. But a better, proper and legal exercise of discretion is one where the authority examines the fact, is aware of law and then decides objectively and rationally what serves the interest better.** When a statute either provides guidance or rules or regulations are framed for exercise of discretion then the action should be in accordance with it. **Even where statutes are silent and only power is conferred to act in one or the other manner, the Authority cannot act whimsically or arbitrarily. It should be guided by reasonableness and fairness. The legislature never intends its authority to abuse the law or use it unfairly….**. **(emphasis supplied)**

23. Thus, it is too well settled a principle which has emerged over the years that where a statute vests discretion in the authority to exercise a particular power, there is an implicit requirement that it shall be exercised in a reasonable and rational manner free from whims, vagaries and arbitrariness. Thus, this Tribunal is of the considered view that the imposition of the maximum penalty of Rs.4,00,000/- under Section 117 by the Adjudicating Authority, notwithstanding the recorded finding of bona fides and the absence of any objectionable goods, is manifestly arbitrary, wholly disproportionate and inconsistent with the fairness required of a quasi-judicial authority, and is therefore difficult to sustain. The penalty imposed is therefore liable to be set aside *in toto*.

24. There is yet another aspect of lack of prompt action by the Customs Authorities to facilitate re-export, to which the appellant has drawn this Tribunal's attention. The records show that the Appellant repeatedly sought permission to re-export the goods and even paid

the penalty imposed, under protest, in an attempt to secure their release and facilitate re-export. It is the appellant's contention that despite these efforts, there was an undue and unexplained delay on the part of the Customs Authorities in permitting re-export. The Let Export Order was issued only on 22.08.2025. The contention of the Appellant that the continued detention of the goods was attributable to the Customs authorities, therefore, cannot be brushed aside.

25. It would be manifestly unjust to visit the Appellant with detention and demurrage charges for a period during which the goods remained detained on account of the acts or omissions of the Customs authorities. The decisions of the jurisdictional High Court, the High Court of Andhra Pradesh and the Tribunal, as relied upon by the Appellant, support the principle that where goods remain detained by reason of action attributable to the Customs authorities, the consequential detention and demurrage burden ought not to fall upon the importer or exporter.

26. Suffice to note that the Jurisdictional High Court in ***K. Steamship Agencies Pvt Ltd v. Balaji Dekors, (2024) 22 Centax 212 (Mad)***, has held as under:

> "**44.** The next and last question that arises for consideration is the noncompliance of the waiver certificates by the CCSPs and the authorised carriers. The provisions of the Customs Act, the 2009 HCCA Regulations and the 2018 SCMT Regulations, contain various provisions for cancellation of licence, suspension and imposition of penalty. When the waiver certificate is issued, it is the obligation on the part of the CCSP to honour the same and waive the charges. Further, the Act and the provisions do not carry any provision for payment of interest. Therefore, the only deterrent for non-compliance can be initiation of appropriate action against the CCSPs. Therefore, in cases, where the certificates are issued after conclusion of the adjudication proceedings in favour of the importer/exporter and if not complied, appropriate action may be initiated by the department by following the due process of law.

(I) CONCLUSION & DIRECTIVES ISSUED:

45. On the basis of the above discussion and findings arrived at, our conclusions are as follows:

(1) The writ petitions under Article 226 of the Constitution will be maintainable against the CCSPs as they are bound by the statutory regulations and thus, the writ petitions filed will be deemed to for the enforcement of a statutory right and thus maintainable.

(2) The 2009 HCCA Regulations, and 2018 SCMT Regulations will prevail over the contract between the parties and the waiver certificates issued by the authorities are valid in law, if the adjudication ends in favour of the importer/exporter.

(3) **The waiver certificate can be issued by the Customs authorities in cases the adjudication ends in favour of the importer/exporter without imposition of any duty, fine or penalty either by order of the adjudication or clarification or order of the court or Tribunal.**

(4) The provisional release is always subject to outcome of the adjudication proceedings and wherever such application is pending, the authorities are directed to pass order within two weeks from the date of receipt of a copy of this order.

(5) In cases, where the importer/exporter is found guilty of misdeclaration or of any other violation by import of prohibited goods or violation by import of restricted goods, the demurrage charges would have to be paid.

(6) In cases where the adjudication is not in favour of the importer/exporter and some action is taken, the authorities cannot issue any waiver certificate and if such certificates have been issued despite the fact that the importer/exporter is found to be guilty, the same are invalid.

(7) **The Customs authorities are bound to follow the timelines under the Act and the Regulations and in**

<u>case of any delay in conclusion of the adjudication proceedings or for issuance of orders permitting re-export, the department is liable to compensate the importer/exporter or the CCSP, as the case may be.</u>

(8) Wherever the application for waiver has been made and is pending, the appropriate officer is to pass orders on such application within four weeks from the date of receipt of this order in terms of the proposition laid down in the preceding paragraphs.

(9) Wherever the adjudication proceedings are pending, the same must be completed within four weeks and appropriate orders, depending upon the facts of the case either granting or rejecting request for waiver, must be passed within four weeks from the date of receipt of this order.

(10) Wherever the clearance for re-export is pending, the same must be completed within four weeks from the date of receipt of this order and appropriate orders depending upon the facts of the case on the waiver application, must be passed.

(11) For non-compliance of the directions, it is open to the department to initiate appropriate proceedings by following the due procedures under the provisions.

(12) In cases where any security has been encashed or where charges have been realized from the importer/exporter pending adjudication proceedings, which concluded in their favour, the importer/exporter is entitled to refund, which shall be made within four weeks from the date of receipt of this order.

(13) As far as the claim for interest is concerned, it is open to the parties to approach the authority concerned, who shall consider the same and pass appropriate orders, on merits and in accordance with law.

(14) It is open to the Central Government to look into the different timelines prescribed under the Act and the regulations and bring about appropriate changes to have uniform timelines and to bring in accountability.

(15) The Board is directed to issue appropriate instructions in this regard and fix the liability on the officers responsible for the delay and take appropriate action against them." **(emphasis supplied)"**

27. In the circumstances of the present case, the goods are entitled to similar treatment. The jurisdictional Customs Authority is therefore directed to issue a certificate for waiver of detention and demurrage charges under Regulation 6(1)(l) of the Handling of Cargo in Customs Areas Regulations, 2009, for the period up to the date on which the Let Export Order for re-export of the subject goods was issued and made available to the Appellant.

28. There is also a larger concern arising from the manner in which the matter was adjudicated and it is not merely one concerning the quantum of penalty. Quasi-judicial proceedings must necessarily reflect fairness, application of mind and proportionality. The exercise of discretion by an adjudicating authority must be founded upon the statutory conditions governing its exercise and cannot be arbitrary, whimsical, capricious or mechanical, as would flow from the decisions of the Apex Court noticed supra. Proper consideration of the statutory requirements and clear reasons for the conclusions reached are essential to ensure consistency and fairness in adjudication.

29. In the instant case, the Appellant was not only subjected to the maximum penalty despite the absence of any established contravention, but was also compelled to incur further consequences arising from the continued detention of the goods till the time of its re-export and also to pursue litigation contesting the imposition of such penalty. It is the considered view of this Tribunal

that such imposition of the maximum penalty in the absence of a finding of contravention, followed by the consequent litigation and delay in permitting re-export, has resulted in avoidable prejudice to the Appellant.

30. The circumstances disclosed by the record, apart from their bearing on the present appeal, may require examination by the competent authority at the appropriate level, particularly having regard to the imposition of the maximum penalty in the absence of any recorded finding of contravention and the subsequent delay in permitting re-export. At this juncture, it is apposite to note that ***the Board had issued an Instruction F.No. 390/CESTAT/69/2014-JC, dated 22-12-2015 on the subject of "Imposition of cost by CESTAT on grounds of quality of adjudication order"***, wherein; after observing that only such orders which are passed in favour of assesses are subjected to rigorous scrutiny and whenever the reviewing authorities are of the considered view that orders were not in conformity with the law, such orders are appealed against whereas the orders passed in favour of Revenue are accepted without any critical examination as to whether such orders are legal and proper; it was conveyed that therefore, there is a need to examine critically the orders passed in favour of the Department also by the same standards. Hence, invariably, it would also merit examination whether the order in this instance has been examined critically by the competent authorities during review on the aspect of maximum penalty being imposed, and as to what weighed with them in its acceptance; for such acceptance sans valid reasons, would also be equally disquieting. The Tribunal expresses no opinion on whether any further action is called for, but considers it appropriate that the matter be placed before the competent authority for such examination and further action as may be deemed necessary, in accordance with law.

31. Registry is directed to forward a copy of this order to Secretary, Revenue, Ministry of Finance, Government of India and to the

Chairperson, Central Board of Indirect Taxes and Customs, for information and for such action as may be considered appropriate.

32. For the reasons stated above, the impugned order is modified to the extent of setting aside the penalty imposed and the appeal is allowed in the aforesaid terms, with consequential relief in law, if any.

(Order pronounced in the open court on 20.08.2026)

(AJAYAN T.V.)
Member (Judicial)

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