CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 53658 OF 2018

[Arising out of Order-in-Original No.19/Commr/BBG/PPG/2018 dated 25.07.2018 passed by the Commissioner of Customs, Delhi]

M/s. Icon Fibers and Fabrics Pvt. Ltd. **Appellant**
513, Kakad Market, 306, Kalbadevi Road,
Mumbai-400002

Vs.

The Commissioner of Customs,
ICD Patparganj, Delhi **Respondent**
Delhi-110096

Appearance:
Present for the Appellant : Shri Annamaya Nanda, Advocate
Present for the Respondent: Shri M. K. Shukla, Authorised Representative

CORAM:
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing :21.07.2026
Date of Decision:18.08.2026

Final Order No.51338/2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s. **Icon Fibres and Fabrics Ltd**[1], against the Order-in-Original No. 19/Commr/BBG/PPG/2018 dated 25.07.2018 passed by the Commissioner of Customs, Delhi, confirming the demand of Customs

---

1. The Appellant

duty amounting to Rs.11,68,099/- and imposing penalty of Rs.11,68,099/- under section 114A of the Customs Act, 1962.

2. The brief facts are that the instant case originated from a nationwide investigation conducted by the Directorate of Revenue Intelligence (DRI), Kolkata Zonal Unit, which unearthed a large-scale fraud involving fake exports shown through Ghojadanga Land Customs Station, West Bengal. The investigation revealed that a syndicate headed by Shri Paresh Daftary and Shri Jyoti Biswas fabricated export documents in the names of several exporters for obtaining export incentive licences under the DEPB, DFIA and VKGUY Schemes. Investigation established that exporters including M/s Royal International, M/s Aum Silk Mills, M/s Balaji International, M/s Yashraj International and M/s Wardhman International obtained DEPB/DFIA licences from DGFT on the basis of forged shipping bills and fabricated export documents even though no exports had actually taken place through Ghojadanga Land Customs Station[2]. Verification conducted by Customs authorities confirmed that the shipping bills relied upon for obtaining the licences had never been filed before the Customs authorities and also being non EDI port, TRAs were required to be issued for utilization at other port. Investigations established that no TRAs had been issued by the LCS for utilization of these Licenses. These fraudulently obtained transferable licences were thereafter sold through brokers to various importers across the country for utilisation towards payment of customs duty on imported goods. The appellant, M/s Icon Fibers & Fabrics Pvt. Ltd., was identified as one such

2. LCS

beneficiary importer. Investigation established that the appellant had utilised two DFIA licences issued in the name of M/s Royal International, Licence Nos. 0310586905 dated 11.08.2010 and 0310587744 dated 16.08.2010, for clearance of imported polyester fabrics through Tuticorin Port, resulting in wrongful exemption of customs duty amounting to Rs.11,68,099/-. During investigation, searches were conducted at the premises of various importers, including M/s P. Kishanchand Textiles Ltd., which resulted in recovery of documents connecting the fraudulent licences with beneficiary importers. Statements recorded under Section 108 of the Customs Act established that the licences had been procured through brokers without any verification of their genuineness, thereby exposing the organised chain extending from fake exporters to ultimate beneficiary importers, including the appellant. On completion of investigation, a Show Cause Notice was issued proposing recovery of duty, interest and imposition of penalties. The adjudicating authority, after detailed examination of documentary evidence, statements, verification reports of Customs authorities and DFT records, concluded that the DFIA licences utilised by the appellant were void ab initio as they had been obtained on the basis of fake exports, and accordingly confirmed the demand of duty, interest and penalties.

3. Learned counsel submitted that the Appellant who is an importer had purchased DFIA license from the exporter i.e. Royal International which is a partnership firm. He also submitted that the Revenue had proceeded on the erroneous assumption that the Appellant was a participant in, or had knowledge of, the alleged fraud committed by

certain exporters several years prior to the imports in question. No evidence had been produced by the Department to establish any nexus between the Appellant and the alleged fraudulent exporters, brokers or the persons stated to have engineered the fraud. Learned counsel submitted that it is an admitted position that the Appellant was only a transferee purchaser of transferable DFIA licences and the licences were validly issued by the DGFT at the relevant time.

3.1 Learned counsel stated that the Revenue had failed to establish any involvement of the appellant in the alleged fraud. Learned counsel contended that the Show Cause Notice as well as the impugned order did not record any finding that the Appellant had participated in fabrication of export documents or knew the exporters. Further, there was no evidence that the Appellant had dealt with Paresh Daftary, Jyoti Biswas or any alleged syndicate or had knowledge that exports were fictitious.

3.2 Learned counsel further stated that the appellant was a bona fide purchaser for valuable consideration. He stated that the DFIA licences were freely transferable under the Foreign Trade Policy and the Appellant had purchased the licences through normal commercial channels for valuable consideration. Also, the payments were made through banking channels to the exporter i.e. Royal International. Learned counsel submitted that in the present case, the Revenue had sought to impose an impossible obligation upon every purchaser of transferable licences to investigate the entire export transaction undertaken by another person. He stated that neither the Customs

Act nor the Foreign Trade Policy had cast any such obligation upon a transferee purchaser.

3.3 He also contended that DFIA licences were issued only after scrutiny by the licensing authority. Once the competent authority had issued a transferable licence, a purchaser was entitled to rely upon its validity. The Customs authorities cannot shift the consequences of failure of governmental verification onto an innocent transferee. Learned counsel further submitted that the Revenue had treated the decision in Freudenberg Nonwovens India Pvt. Ltd. as conclusive. The said decision could not overrule binding judgments of the Supreme Court protecting bona fide transferees. Learned counsel relied on the following decisions:

(i) Comm of Customs vs M/s Aafloat Textiles (I) Pvt Ltd.

(ii) Friends Trading Co. voi

(iii) Collector of Customs, Bombay vs Sneha Sales Corporation[3]

(iv) Taparia Overseas (P) Ltd. Vs Union of India[4]

3.3.1 Learned counsel stated that these judgments recognised that a bona fide transferee cannot automatically be penalised for fraud committed by another person without its knowledge.

---

3 2000(121) E.L.T. 577 (S.C.)

4. 2003(161) ELT 47 (Bom)

3.4 Learned counsel further submitted that the Revenue had attempted to fasten liability upon the Appellant solely because it happened to be a purchaser of transferable DFIA licences subsequently, which are alleged to have originated from fraudulent exports. No evidence had been produced to establish that the Appellant participated or, had knowledge of, or had benefited from the alleged fraud beyond lawfully purchasing transferable licences in the ordinary course of business. The entire case against the Appellant was founded upon the presumption rather than proof. Such presumption cannot displace the settled principles protecting bona fide purchasers acting in good faith. Learned counsel prayed that the impugned Order may be set aside.

4. Learned Authorised Representative submitted that the present appeal arose from the same DRI investigation which had culminated in adjudication against various exporters, brokers and importer-beneficiaries who had utilized export incentive licences obtained on the strength of fake exports through Ghojadanga Land Customs Station. Learned Authorised Representative also submitted that one of the noticees in the same investigation, namely M/s Freudenberg Nonwovens India Pvt. Ltd., had challenged the adjudication before this Tribunal in Customs Appeal Nos.53172/2018, 53408/2018 & 53536/2018. Learned Authorised Representative further submitted that the Tribunal vide Final Order Nos. 51065-51067/2025 dated 16.07.2025 had dismissed all the appeals and upheld the orders confirming duty, interest and penalty.

4.1 Learned authorized representative contended that exactly the same defence as taken by the appellant M/s Icon Fibers, had been taken by M/s. Freudenberg Nonwoven India Pvt. Ltd., who had pleaded that the DFIA licences were purchased from M/s P. Kishanchand Textiles Ltd. and therefore they were bona fide purchasers. However, Learned Authorised Representative contended that no verification was made from DGFT; no verification was made from Customs; no enquiry was made regarding the genuineness of exports; no enquiry was made regarding Royal International; no due diligence whatsoever was exercised. Accordingly, the ratio laid down in Freudenberg squarely defeats the defence raised by the appellant. He prayed that the appeal may be dismissed.

5. We have heard the learned counsel for the appellant and the learned authorized representative for the Department. The issue before us is whether the appellant is liable to duty/penalty on the fraudulent DFIA licenses utilized by them. At the outset, we note that in identical factual matrix, this Tribunal in its decision in Freudenberg Nonwoven India Pvt. Ltd. (supra) has held as follows:

> "6. Learned authorized representative appearing for the department is correct in his submission that the issue involved in all the three appeals is covered by a division bench decision of this Tribunal in **Mercedes Benz**. It is seen that the appeals were dismissed for the reasons that appellants had obtained TRAs which were found to be forged. The relevant observations made by the Tribunal in this context in **Mercedes Benz** are reproduced below:

> **"24. The issue to be determined in these appeals is as to whether the appellants had validly imported the consignments duty free on the strength of the licenses involved in these appeals. It is not disputed by the appellant that these licenses were obtained in a fraudulent manner by the exporters or the importers/manipulators, but their contention is that they have purchased these licenses through various brokers on payment of consideration through banking channels and, therefore, they cannot be held responsible for any manipulation by the transferor of these licenses. As the transferee, they have taken enough precaution before purchasing these scraps from open market by verifying on the DGFT website.** They have also made payment to the brokers of license through banking channel/account payee cheques. **Regarding obtaining of TRA with the transfer license, the appellants admitted that the TRAs were also made available to them with the transfer licenses but they were not aware that these TRAs were also manipulated. In such circumstances, they pleaded that being bona fide purchasers of the licenses, they should not be penalized for any lapse committed by the exporter. On the other hand, it is contention of the Department that the entire activities of export and TRA has been manipulated by the exporters.** As these licenses have been cancelled or are in the process of cancellation, the license are void ab initio and the duty liability with interest and penalty has been rightly imposed.
>
> **25.** The bona fide of imports which were made under the various export promotion schemes under Chapter 3 and 4 of the Exim Policy has to be examined. The schemes have already been discussed in the preceding paragraphs. The importers purchased these licenses, which were transferrable from the license brokers. **After the purchase of license, the importers did not apply for the issue to Telegraphic Release Advice (TRA) from the port of Registration (POR) as was required to be obtained the TRAs from the brokers. Not only that, they also failed to ascertain the veracity of such TRAs from the Port of Registration. Thus, the-due diligent that was required to be exhibited by the importer was not carried out."**
>
> **(emphasis supplied)**

7. It clearly transpires from the aforesaid decision of the Tribunal in **Mereceds Benz** that though a contention had been raised that the appellants were not aware that the TRAs were manipulated or forged, but this contention was not accepted and it was held that since the appellants had not applied for issue of

> the TRAs from the port of registration as was required to be done and they also failed to ascertain the veracity of such TRAs from the port of registration, due diligence that was required was not exhibited nor carried out. The appeals were accordingly, dismissed.
>
> 8. In view of the aforesaid decision of the Tribunal in **Mercedes Benz**, no relief can be granted to the appellant."

6. We now examine the facts of both these cases. It is an admitted result of a common investigation as is evident from the table below:

Icon Fibers (Appellant)	**Freudenberg Nonwoven**
Same DRI investigation	Same DRI investigation
Same fake export syndicate	Same fake export syndicate
Same forged export documents	Same forged export documents
Same fraudulent DFIA licences	Same fraudulent export incentive licences
Same Order-in-Original series	Same Order-in-Original series
Same Commissioner	Same Commissioner
Same legal issue	Same legal issue

6.1 Thus, we note that the factual foundation of both matters arose from the same investigation.

6.2 We further find that the Tribunal recorded that intelligence was gathered by the Department which established that forged Telegraphic Release Advices (TRAs) had been used for availing duty exemption and that the adjudicating authority had confirmed duty, interest and penalty accordingly. Similarly, we note that in the present case, the investigation had conclusively established that M/s Royal International had procured DIA licences on the basis of fabricated exports and those licences were subsequently utilised by M/s Icon Fibers & Fabrics Pvt.

Ltd. for duty-free imports. Consequently, we hold that the foundation of fraud remains identical to the referred decision.

6.3 A perusal of the earlier decision reveals that the principal defence before the Tribunal in Freudenberg case was that the licences had been purchased through brokers and that the importer was unaware of the fraud. We find that the Tribunal had rejected this defence by holding that the importers themselves were required to obtain and verify the TRA, and they could not merely rely upon brokers. They failed to verify the authenticity of the documents, and had failed to exercise due diligence. Thus, duty demand and penalties were justified.

6.4 We note that the learned counsel for the appellant have pleaded that the DFIA licences were purchased from M/s P. Kishanchand Textiles Ltd. and therefore they were bona fide purchasers. However, we find that the appellant had made no verification from DGFT, nor from Customs. Further, no enquiry was made regarding the genuineness of exports, nor any enquiry was made regarding Royal International. It is obvious that no due diligence whatsoever was exercised by the appellant while purchasing the said DFIA License. We further note that the Tribunal had specifically held that importers had completely relied upon broker’s procurement and utilisation of licences and that such conduct cannot amount to due diligence. In addition, the Tribunal observed that the importers simply accepted the documents supplied by brokers without independently verifying their authenticity and therefore they cannot avoid liability. In the instant case, we note that the appellant had obtained the said DFIA license from intermediaries. The licences originated from Royal International, and the licences themselves were products of fake exports. The appellant had never verified the genuineness of the licences, which cannot be accepted.

6.5 We also find that the Tribunal held that the said controversy stood concluded by the earlier Larger Bench/Coordinate Bench decision in **Mercedes Benz India Pvt. Ltd**, which held that the importers purchasing transferable licences cannot escape liability, verification from DGFT website alone is insufficient, importers must verify the TRA and documents, absence of due diligence renders them liable for duty, interest and penalty. The relevant paras are reproduce hereinafter:-

> "24. The issue to be determined in these appeals is as to whether the appellants had validly imported the consignments duty free on the strength of the licenses involved in these appeals. It is not disputed by the appellant that these licenses were obtained in a fraudulent manner by the exporters or the importers/manipulators, but their contention is that they have purchased these licenses through various brokers on payment of consideration through banking channels and, therefore, they cannot be held responsible for any manipulation by the transferor of these licenses. As the transferee, they have taken enough precaution before purchasing these scrips from open market by verifying on the DGFT website. They have also made payment to the brokers of license through banking channel/account payee cheques. Regarding obtaining of TRA with the transfer license, the appellants admitted that the TRAS were also made available to them with the transfer licenses but they were not aware that these TRAs were also manipulated. In such circumstances, they pleaded that being bona fide purchasers of the licenses, they should not be penalized for any lapse committed by the exporter. On the other hand, it is contention of the Department that the entire activities of export and TRA has been manipulated by the

> exporters. As these licenses have been cancelled or are in the process of cancellation, the license are void ab initio and the duty-liability with interest and penalty has been rightly imposed.
>
> 25. The bona fide of imports which were made under the various export promotion schemes under Chapter 3 and 4 of the Exim Policy has to be examined. The schemes have already been discussed in the preceding paragraphs. The importers purchased these licenses, which were transferrable from the license brokers. After the purchase of license, the importers did not apply for the issue to Telegraphic Release Advice (TRA) from the port of Registration (POR) as was required to be obtained the TRAs from the brokers. Not only that, they also failed to ascertain the veracity of such TRAs from the Port of Registration. Thus, the due diligent that was required to be exhibited by the importer was not carried out."

We also note that the appellant also relied only upon the transfer of licences without verifying authenticity of exports, validity of DFIA, correctness of underlying documents, genuineness of the issuing exporter. In view of the above, we hold that the ratio of the decision in Mercedes Benz squarely applies to the instant case. Since the duty demand itself is sustainable on identical facts, the penalty is also sustainable.

7. While considering, it is important to note that the Freudenberg decision of the Tribunal is not merely a judicial precedent, but is a judgment rendered in a case, which emerged from the same DRI investigation, involving the same fraudulent export syndicate, involving the same class of fraudulent export incentive licences, involving the same legal questions, affirming the same reasoning adopted by the adjudicating authority. Consequently, the findings

recorded by the Tribunal furnish strong judicial support for sustaining the impugned Order-in-Original against the appellant.

8. Since M/s Icon Fibers & Fabrics Pvt. Ltd, the appellant was a beneficiary importer under the same fraudulent scheme, having utilised DFIA licences obtained by M/s Royal International on the basis of fake exports, the ratio laid down in Freudenberg Nonwovens India Pvt. Ltd. applies squarely.

9. Consequently, we find no reason to interfere with the impugned order. The impugned Order-in-Original is upheld and the appeal stands dismissed.

(Order pronounced on **18.08.2026**)

(DR. RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana