CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 50286 of 2025

(Arising out of Order-in-Appeals No. CC(A) Cus/D- II/TKD/25/2024-25 DATED 06.05.2024

M/s Entire Logistics Pvt Ltd. **....Appellant**
Office No.207,MS Chamber Near Hira Sweets
Vikas Marg Laxmi Nagar
New Delhi 110092

Versus

Commissioner Appeals-Commissioner of Customs Import, ...**Respondent**
New Delhi

With

Customs Appeal No. 50287 of 2025

(Arising out of Order-in-Appeals No. CC(A) Cus/D- II/TKD/22/2024-25 DATED 01.05.2024

M/s Entire Logistics Pvt Ltd. **....Appellant**
Office No.207,MS Chamber Near Hira Sweets
Vikas Marg Laxmi Nagar
New Delhi 110092

Versus

Commissioner Appeals-Commissioner of Customs Import, ...**Respondent**
New Delhi

And

Customs Appeal No. 51865 of 2025

(Arising out of Order-in-Appeals No. CC(A) Cus/D- II/TKD/24/2024-25 DATED 06.05.2024

M/s Entire Logistics Pvt Ltd. **....Appellant**
Office No.207,MS Chamber Near Hira Sweets
Vikas Marg Laxmi Nagar
New Delhi 110092

Versus

Commissioner Appeals-Commissioner of Customs Import, ...**Respondent**
New Delhi

APPEARANCE:

Ms. Shri Sambhav Jain and Shri Pranav Raj Advocates for the Respondent
Mr. Anuj Kumar Neeraj, Authorized Representatives of the Department

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: 05.05.2026

DATE OF DECISION:02.09.2026

FINAL ORDER NO. 51420-51422/2026

DR. RACHNA GUPTA

The present order disposes of 3 appeals arising out of same investigation; one being the Custom House Agent, another appellant namely Shri Ashish Gupta is the director of the CHA. Being aggrieved of imposition of penalty. The details of 3 of the appeals are tabulated below.

S. No	Appeal no.	Name of the importer and IEC	Bill of Entry no. and Date	Container number	SCN	OIO	OIA
1	51865 of 2025	M/S SYM Company (BSKPG0173P)	7138319 dt 19.01 2022	CIPUS156591 SEGU4104255 TGBUS536269	244/2022 22.07.2022	181/22 dt 15.12.2022	24/2022 dt 07.05.2024
2	50287 of 2025	M/s Gorgeous Apparels (FDEPM6019K)	7066566 dt 13.01.2022	EOLUc976600 FSCU6789805	245/2022 11357 dt. 22.07.2022	188/2022 dt 27.12.22	22/24-25 dt. 01.05.2024

3	50286 of 2025	M/s Vikash Trading(GUHPK0626M)	7130149 dt 18.01.2022	KCSUS766835	93/2022-23 dt. 22.07.2022	187/2022 dt. 28.12.2022	25/24-25 dt. 07.05.2024

1. The briefly stated facts which culminated in the aforesaid adjudications are that the Directorate of Revenue Intelligence[1] Delhi zonal units got an intelligence about imports of areca nuts from Indonesia by mis-declaring the goods as "Beetle Nut", product known as "supari" classifying those under terrif item to 21069030. Based on the said intelligence that the consignments of the Bills of Entry as tabulated above of the respective importers, were got examined on 27/1/2022 and 28/01/2022 by the officers of SIIB, ICD Tughlaqabad. The representative samples were drawn from all the above mentioned containers and goods were accordingly seized vide order dated 30/05/2022. It was observed that the imported goods were broken cut pieces as well as whole pieces Areca nuts of substandard/ inferior quality. CRCL New Delhi vide report dated 04/02/2022 and Areca Nut Research and Development Foundation Mangalore vide letter dated 09/03/20212, as per COA- FSSR/ 2011 and IS: 16962/2018, reported with respect to moisture content therein.

1.1. The statements of the importers were got recorded under section 108 of the Customs Act who acknowledged that goods are actually classifiable under CTH 08028090 and are prohibited goods for want of compliance of the terms of DGFT notification no. 20/2015-2020 dated 25/07/2018. The goods were accordingly observed liable to confiscation for contravention of the provisions of section 111(d) and section 111 (m) of the Customs Act 1962. It was further stated

[1] DRI

that the value of imported goods was also wrongly declared as Rs. 90.48 per kilogram. The goods were wrongly classified under CTH 21069030 with the sole intention of wrongly claiming the exemption benefit vide S.No 103 of notification no. 50/2017 – CUS dated 30/06/2017. The appellant were stated to be aware of the same.

1.2. Based on the said statement the present appellant/ CHA has also been alleged to have abetted in the improper importation of the goods in question by knowingly mis classifying the imported goods. It is alleged that the CHA knowingly used false and incorrect material in relation to the imported goods, by incorrectly advising the importer about the correct classification despite that he himself was aware of the same. The Act and Conduct of the custom broker/ Appellant is alleged to be in violation of the Regulation 10(d) 10 (e) 10 (f) of Customs Broker Licensing Regulations 20189 (CBLR).

1.3. With these allegations that the Show Cause Notices, as tabulated above, were served not only upon the respective importers but also on the appellant being the common CHA for three of the importers. In addition to proposals qua the importers, the Show Cause Notices have proposed the penalty to be imposed upon the appellant in terms of Section 112 and 114 AA of the Customs Act 1962. The proposal has been confirmed vide the respective adjudication orders, as tabulated above. Being aggrieved the appellants are before this Tribunal.

2. We have heard Shri Sambhav Jain and Shri Pranav Raj Learned counsels for the appellant and Shri Anuj Kumar Neeraj, Authorized Representative (AR) for the department.

3. Learned counsel for the appellant has submitted that the penalty upon the appellant CHA has wrongly been imposed. There is

not even an allegation nor any proof of knowledge, participation, intent, abetment or mens-rea on part of the appellants for the alleged improper imports. The appellant had simply reproduced the importer's documents while filling the Bill of Entry. Admittedly, the appellant had no role whatsoever in procurement, shipment, negotiation, valuation, classification, decision making or any activity relating to the import. The routine filing of Bill of Entry by the appellant/ CHA has wrongly been held to be an act of abetment for illegal importation.

3.1 The law has been settled that penalties under **Section 112 (a) (ii) and 114 AA** cannot be imposed on the custom broker in the absence of any evidence which can demonstrate any kind of mens-rea with the appellant to abet the act of misdeclaration at the time of import. It is not at all legal especially when the goods were examined by the Custom's officer and were got cleared. The decision of Tribunal Allahabad Bench in the case of **Joshi M.J vs CC Noida reported as 2019 (369 ELT 1507) Tribunal Allahabad** is relied upon where it was held that mere acceptance of document and filing of papers without any alleged positive act or awareness of wrong doing cannot attract penalty. Decision of this Tribunal Madras Bench in the case titled as **G seenivasan vs CC Airport& Air Cargo reported as (2024) 18 Centex 248 Tribunal Madras** and of the principal Bench of the Tribunal in **Him Logistics pvt ltd vs Commissioner of Customs New Delhi report as 2016 (340 ELT 388)** Tribunal Delhi is also relied where it was held that the classification of goods is a technical and complex function resting with the customs assessing officer. The CHA cannot be expected to override the importers documents or to conduct any kind of analysis to predict the classification thereof.

4. Learned Counsel for the appellant has also relied upon the decision of this Tribunal in the **Excise Appeal no. 51148 of 2020 decided vide final order no. 50453- 50454 of 2025 in the case titled as M/s Suryawires pvt ltd. vs Principal Commissioner CGST Raipur** wherein it has been held that for any statement to be relied upon for the purpose of proceeding against the maker thereof, the statement should have undergone the test of Section 9 D of Central Excise Act, 1944 or of Section 138 B of the Customs Act, 1962. Since, those provisions have not been followed by the adjudicating authorities in the present case, the sole reliance on the statements of the importers and of the appellants is wrongly made the basis of imposition of penalty. With these submissions, the penalties imposed upon the appellant are prayed to be set aside. Three of the appeals are accordingly prayed to be allowed.

5. Learned AR appearing on behalf of department, while rebutting the submissions, has mentioned that the appellant custom broker had filed the Bill of Entry on behalf of the importer. In his statement the director of the Appellant namely Shri Ashish Gupta had admitted that importers were suggested by them to classify the goods under CTH 21069030 so as to get the goods cleared at minimum custom duty and to remain competitive in the market. Learned DR impressed upon that the investigation has clearly established that the appellant CHA had knowingly recommended the incorrect classification which enabled the importer to attempt clearance of the prohibited goods. The investigation has established that the Appellant knowingly and intentionally used the false and incorrect declarations relating to classification in the import documents. Hence, there is no infirmity when

the penalties under Customs Act have been imposed on the Appellants. Three of the appeals are accordingly prayed to be dismissed.

6. Having heard both the parties, perusing the entire record, it is observed that the investigation was initiated against three of the importers who got the Bills of Entry filed through the present appellants for getting clearance of the goods which were declared by them as 'Areca Nuts' and classified under CTH 21069030. The impugned order have held that the goods were knowingly wrongly classified with intent to wrongly avail the exemption benefit of Notification No. 50/2017. None of those importers are mentioned to have challenged the outcome of the impugned orders where imports made by three of the importers have held to be improper and illegal imports. It is only the Custom Broker/CHA who is common to three of those importers its Director Shri Ashish Gupta who are before us being aggrieved of the penalties against them after. We further observe that the case of department is that the imported the goods were Areca Nuts classifiable under CTH 080280 for which the benefit of Notification No. 50/2017-Cus was not available. The import was below the Minimum Import Price and therefore prohibited. Consequently, Goods valued at Rs. 3,01,52,233/- were confiscated under Sections 111(d) and 111(m) of the Customs Act and Penalty of Rs. 10,00,000 under Section 112(a)(i) was imposed on the appellant Penalty of Rs. 20,00,000 under Section 114AA was also imposed

7. The statement of the appellant Shri. Ashish Gupta director has been the basis of imposition of penalty on the appellants. The appellants has objected the admissibility thereof. However, we observe that, the statement of the said director namely Shri Ashish Gupta was recorded under Section 108 of the Customs Act 1962. Section 108 of

the Customs Act, 1962 which allows Customs officers to summon any person for inquiry, treats those proceedings as "judicial proceedings" equivalent to testimony before a court and permits the statements to be used as substantive evidence in a trial. A confession made to a police officer is inadmissible in court. However, a confession made to a customs officer, if deemed voluntary, is admissible. That distinction is settled by a line of Constitution Bench judgements; going back to **Ramesh Chandra Mehta v State of West Bengaland Illias v Collector of Customs in the late 1960s reported as 1970 AIR 940.** Wherein it was held that a confession recorded by a Customs officer carries full evidentiary weight as substantive evidence, provided it is found to be voluntary. The Bombay High Court though in the case of **The Assistant Collector of Customs v Hasanali Rumi, reported as 2019 Nearlaw (Bom.H.C) online 2880 in criminal appeal no 136/1995** where Justice K.R. Shriram, upholding an acquittal, asked: If courts were to simply accept Section 108 statements as "gospel truth", why would there be a need to hold a trial at all? However, the issue of Section 108 confessions returned to the Supreme Court.

8. Hon'ble Court in **Amad Noormamad Bakali v State of Gujarat, Supreme Court in criminal appeal no. 1232-1237 of 2012 vide judgment dated 23.02.2026** reiterated that confession made to Customs officer is admissible as evidence. The Supreme Court reaffirmed one of the most contested principles in Indian evidence law placing reliance on **K.I. Pavunny v Assistant Collector (HQ), Central Excise Collectorate, Cochin 1997 AIR online 756 SC,** the Court held that statements recorded by customs officers are admissible as substantive evidence provided they are made voluntarily, and these do not attract the bar under Sections 24, 25, or 30 of the Indian

Evidence Act. The basis for this distinction is that Customs officers are not police officers and therefore the Evidence Act's bar on police confessions does not apply to statements recorded before the customs officers.

9. In **Radhika Agarwal v Union of India, W.P.(Crl.) No.336 of 2018 & Connected matters**, a three-judge Bench addressed a batch of 279 petitions challenging the arrest and interrogation powers of Customs and GST officers. The Court upheld those powers but insisted on procedural safeguards such as recorded reasons for arrest, adherence to constitutional guarantees and protection against coercive pre-adjudicatory action. Crucially, it reaffirmed that Customs officers are not police officers, meaning Section 108 statements retain their full evidentiary weight. **In Poolpandi v Superintendent, Central Excise 1992 SCR (3) 247** also the Supreme Court rejected the argument that questioning a person in a Customs office—without the presence of a lawyer or friends do not violate Article 21. The Court held that such interrogation does not, by itself, infringe the right to life and personal liberty.

10. In the present case apparently and admittedly there is no retraction of the CHA appellant nor of its director Shri Ashish Gupta from their statements given under Section 108, to the custom officers. It is apparent from the said statement, that the appellant, had admitted about suggesting three of the importers for classifying the impugned goods/Areca Nuts under CTH 21069030 classification instead of those being classified under CTH 08028090 (processed/ partially rehydrated/ treated/ boiled supari/ areca nuts). The CRCL Report and also from Areca Nut Research and Development Foundation, Mangalore the imported goods were broken cut pieces of Areca Nuts of

substandard/inferior quality with such moisture content as doesn't match the goods of CTH 21069030. This documentary evidence also corroborates the statements recorded under Section 108 of the Custom Act. Appellant have not produced any document to falsify the said documents nor have produced any evidence of any kind of coercion being exercised upon them while their statements were getting recorded. From the such voluntary statements which otherwise stand corroborated by the statements of the importers who also have not retracted their statements nor have come forward to challenge the veracity of the impugned orders it is clearly established that the appellant knowingly recommended the wrong classification of the areca nuts so as to extend the wrong exemption benefit of notification 50/2017 S.No 103 thereof to the importers with the sole purpose to remain competitive in the market and to get more business of custom clearance from the importer of areca nuts.

11. The Custom House Agents are otherwise the representatives not only of the importers/ exporters but they are the agents for the custom department also. The Hon'ble High Court Bombay in the case of **CC (General vs World Wide Areca Manufacturer) report as 2010 (253) ELT 190** has upheld the liability of the CHA wherein it was held that irrespective it is the right of a citizen to carry on his business of profession but the right is subject to reasonable restrictions and conditions. Where the CHA appears to have brazenly acted even while defending the acts of his employees and simultaneously supporting the importers to make illegal imports, the Tribunal is not supposed to interfere with the order of departmental authorities passed against the CHA. Hon'able Apex Court also in the case of **Commissioner of**

Customs Vs. K.M. Ganatra & Co. reported as 2016 (332) ELT 15 (SC) has held that:

> *"CHA occupies a very important position in the Customs House. Since the Customs procedures are complicated, the importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations.*

12. Based on the entire above discussion it is held that the department has sufficiently proved that the alleged act of advising the importers about misclassification and under-valuation was done knowingly and intentionally by the appellants. The penalties under Section 112A (ii) and under 114 AA are imposable if and only if there is knowledge and intention on part of the CHA to let the importer make illegal imports. Hence we do not find any infirmity in the orders under challenge where the penalties upon appellant CHA, its director Shri Ashish Gupta have been imposed under both the said provision of Customs Act. As a result of entire above discussion, we hereby upheld the impugned order. Consequently, three of the appeals herein are hereby dismissed.

(order pronounced on 02.09.2026)

(RACHNA GUPTA)
OFFICIATING PRESIDENT

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