IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75886 of 2026

(Arising out of Order-in-Appeal No.Kol/Cus/Port/DC/133/2026 dated 23.02.2026 passed by Commissioner (Appeals) of Customs, Kolkata)

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s A.D.Logistics
(32/1A, Baneshwar Apartment, Ground Floor, Flat F, Pottery Road, Tangra, Kolkata-700015)

Respondent

Appearance:
Shri A.K.Choudhary, Authorized Representative for the Appellant
S/Shri S.K.Mohapatra,Advocate & S.Chattaraj,Consultant for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76476/2026

DATE OF HEARING : 12 OCTOBER 2026

DATE OF DECISION : 12 OCTOBER 2026

Per Ashok Jindal :

The Revenue is in appeal against the Order-in-Appeal dated 23.02.2026 by which, the Learned Commissioner of Customs (Appeals), Kolkata, set aside the penalty of Rs.50,00,000/- under Section 112(a)(i) and the penalty of Rs.50,00,000/- under Section 114AA of the Customs Act, 1962 imposed on the Respondent by Order-in-Original dated 30.09.2025.

2. The facts of the case are that the Respondent was neither the importer, nor the declarant, nor the Customs Broker. He was one link in a chain of six intermediaries, who received the import documents from Shri Goutam Singha and passed them on to the licensed Customs

Broker, M/s Logisticare. The Department's own investigation, recorded in the Order-in-Appeal, establishes that the beneficial owner never knew him, and that the concealment of areca nuts was planned and financed by Shri Anish Bansal and Shri Aman Gupta.

2.1 The facts relevant to the Respondent, as recorded in the Order-in-Appeal and the Department's own Statement of Facts, are set out below.

Date	Event
12.09.2023	Commercial Invoice No. TWE/RI-2023-001 issued by the foreign supplier, M/s Trade World Enterprise, Malaysia, describing the goods as "Ammonium Chloride". The containers were stuffed and shipped from Malaysia.
09.10.2023	IGM No. 2357084 filed.
10.10.2023	Bill of Entry No. 8225494 filed by the Customs Broker M/s Logisticare in the name of the importer M/s Rubblex Impex (IEC AAFPA1498M), after the Broker verified the IEC, PAN and GSTIN on the official websites and found them proper.
11.10.2023	SIIB Alert No. 103/2023 placed on the consignment; Bill of Entry assessed.
20.10.2023	100% examination in the presence of SIIB officers, Shed officers and the Customs Broker. 45.075 MT of split areca nuts found concealed behind bags of Ammonium Chloride; 8.975 MT of Ammonium Chloride found (CRCL: 99.7% NH4Cl). The Respondent was present, assisting the Broker, and informed Shri Rejaul/Ziaul of the findings, advising him to meet the Customs authorities.

Date	Event
01.07.2024 / 02.07.2024	Statement of Shri Aman Gupta, de-facto handler of M/s Rubblex Impex; he was arrested as "the actual beneficiary/mastermind". He stated that he did not know the Respondent and had no contact with him.
17.10.2024	SCN No. Kol/Cus/ADC/Port/Gr-2/69/2024 proposing penalties on the Respondent under Sections 112(a), 112(b) and 114AA.
30.09.2025	OIO imposing Rs.50 lakh under Section 112(a)(i) and Rs.50 lakh under Section 114AA on the Respondent (no penalty under Section 112(b)).
09.01.2026	Personal hearing before the Commissioner (Appeals). No one appeared for the Department.
23.02.2026	OIA setting aside both penalties.
18.04.2026	Review Order No. KOL/CUS/PORT/REVIEW/26/2026 directing appeal.
12.05.2026	Department's appeal verified (Diary No. 76012/2026).

3. The ld.Counsel for the respondent submits that the Order-in-Appeal is a detailed, reasoned order of the first appellate authority. It examines the statements, the role of each person in the chain, the allegation of "central figure", the allegation of facilitation for commission, the photocopy/originals issue, and both penal provisions. The grounds of appeal do not point to any evidence that the Learned Commissioner (Appeals) overlooked; they re-state the conclusions of the Order-in-Original and, in places, add allegations that appear in neither the Show Cause Notice nor the Order-in-Appeal.

3.1 He further submits that Section 112(a) reaches a person who "does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act". The goods became liable to confiscation because (i) 45.075 MT of areca nuts were concealed behind bags of Ammonium Chloride in containers stuffed and shipped from Malaysia, and (ii) the importer mis-declared the cargo in the Bill of Entry on the basis of the supplier's invoice. Both acts were complete before the Respondent had any role. Under Section 17 read with Section 46, the declaration and its correctness are the obligation of the importer.

3.2 He further submits that the Respondent did not stuff, ship, invoice, declare or finance the goods. His only act was to forward documents he had received to a licensed Customs Broker. Forwarding documents does not, by itself, render goods liable to confiscation. The Department's case therefore necessarily rests on the "abets" limb, and the Department itself so contends in Ground G ("facilitation … itself constitutes abetment").

3.3 In support of his contention, he relies on the following case laws :

(i) *Shri Ram v. State of U.P.*, AIR 1975 SC 175. Applying this to Section 112(a),

(ii) The Delhi High Court in *Rajeev Khatri v. Commissioner of Customs (Export)*, 2023 SCC On Line Del 3840 = 2023 (7) TMI 218 (Del.),

(iii) *Commissioner of Customs (Import) v. Trinetra Impex Pvt. Ltd.*, 2020 (372) ELT 332 (Del.)

3.3 He further submits that the Learned Commissioner (Appeals) recorded, as findings of fact, that there was no material showing that the Respondent participated in the preparation of invoices or declarations or knew of the concealment, and that the Orderin-Original itself did not record any clear finding that he knew or had reason to believe that the goods were liable to confiscation (OIA p. 120). The grounds of appeal do not identify a single piece of evidence to the contrary. Accordingly, he prays that the appeal of the Revenue deserves to be dismissed.

4. The ld.A.R. for the Appellant-Revenue has reiterated the grounds of appeal.

5. Heard both the parties and considered the submissions.

6. We find that the confiscability of the goods is not the issue in this appeal. The only question is whether the Department proved that the Respondent, (a) did or omitted an act which rendered the goods liable to confiscation, or abetted such act, within Section 112(a); and (b) knowingly or intentionally made, signed, used or caused to be used a false document within Section 114AA. On both questions, the Learned Commissioner (Appeals) answered in the negative on a full appreciation of the record.

7. We take note of the fact that no involvement of the respondent has been proved by the Revenue by any evidence that the respondent was having knowledge about the import of the above M/s Rubblex

Impex or was a Beneficiary of such import. In fact, the respondent has only introduced one person to another person that does not mean that the respondent is involved in the above imports.

8. In that circumstances, we do not find any infirmity in the impugned order and accordingly, the same is upheld.

9. In the result, the appeal filed by the Revenue is dismissed.

(Operative part of the order was pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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