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

Customs Appeal No.220 of 2011

(Arising out of Order-in-Original No.01/2011 dated 27.1.2011 passed by the Commissioner of Customs, Tuticorin)

M/s. Manas Fabrics **Appellant**
78/1, 1st Floor, 1st Main, 1st Cross
S.G Palya, Bangalore – 560 029.

Vs.

Commissioner of Customs **Respondent**
Custom House, New Harbour Estate
Tuticorin.

APPEARANCE:

Shri N. Viswanathan, Advocate for the Appellant
Shri R. Govindaraj, Authorized Representative for the Respondent

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Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER NO. 41148/2026

Date of Hearing : 12.10.2026
Date of Decision: 30.10.2026

This appeal is filed by the appellant against Order-in-Original No.01/2011 dated 27.1.2011 passed by the Commissioner of Customs, Tuticorin.

Brief Facts

2. The dispute concerns the import of SWF-brand computerized embroidery machines by M/s. Macro Agencies, Bangalore, claiming exemption under Notification No. 21/2002-Cus. dated 01.03.2002. The DRI alleged that the machines, imported through nine Bills of Entry at Tuticorin Port between November 2002 and August 2003, did not have the plotter required for the exemption and that fabricated catalogues

and an incorrect write-up had been submitted to Customs. Technical Consultancy Services Organisation of Karnataka (TECSOK), Bangalore, inspected and reported that the machines were automatic/ computerized embroidery machines and not computerized embroidery pattern-making machines equipped with plotters. M/s. Macro Agencies admitted the duty liability and paid ₹18,40,250/-. The appellant, a local purchaser of one such machine, was issued a show cause notice proposing confiscation and penalty, on the ground that it had purchased goods which appear liable for confiscation under Section111(m) of the Customs Act, 1962 and consequent the Appellant was liable for a penalty under Section 112 (b) ibid. Since M/s. Macro Agencies obtained immunity from confiscation and penalty from the Settlement Commission, the Commissioner refrained from taking action against it but imposed a penalty of ₹4,00,000/- on the appellant under Section 112(b) of the Customs Act, 1962. Aggrieved, the appellant has filed the present appeal before the Tribunal.

3. Shri N. Viswanathan, Ld. Counsel appeared for the appellant and Ld. Authorized representative Shri R. Govindaraj appeared for the respondent.

Submissions made by the Appellant

3.1 Shri N. Viswanathan the Ld. Counsel for the appellant submitted that:

A. The Appellant was a bona fide purchaser of the imported machinery and had neither abetted nor participated in the alleged offence. The full amount, inclusive of duty without availing the exemption, had been paid to M/s. Macro Agencies, as evidenced by the

local sale invoices, which described the goods merely as "computerized embroidery machines". The importer had also admitted these facts.

B. It had received only local sale proforma invoices and had not been provided with copies of the Bills of Entry under which the machinery was imported. Although it was aware that the machinery was imported and that M/s. Macro Agencies was an agent of M/s SWF, the Appellant had no knowledge of the alleged misdeclaration or wrongful availment of the exemption. Payment of the full price, inclusive of duty, further demonstrated that the Appellant had not benefited from the exemption claimed by the importer.

C. The failure to obtain or verify the import documents could not, by itself, establish abetment or render the Appellant liable to penalty under Section 112(b) of the Customs Act, 1962. The alleged misdeclaration and wrongful availment of the exemption were attributable to M/s. Macro Agencies, and no concrete evidence had been produced to establish the Appellant's knowledge of, or involvement in, those acts.

D. In the absence of evidence establishing the Appellant's involvement in the wrongful import or the requisite ingredients of Section 112(b), the penalty imposed was unsustainable.

E. The ld. Counsel prayed that the impugned Order may be set aside.

Submissions made by the Respondent-Revenue

3.2 Shri R. Govindaraj, the ld. Authorised Representative, took us through the impugned order. He submitted that:

A. Once an importer mis-declares facts in the Bill of Entry, then every subsequent domestic purchaser is liable for the original importer's misdeclaration.

B. As per **Advanced Law Lexicon by P. Ramanatha Aiyar**, 3rd Edn. 2005 at page 721: *Caveat emptor* means "Let the purchaser beware."

C. It is the bounden duty of the purchaser to make all such necessary enquiries and to ascertain all the facts relating to the property to be purchased prior to committing in any manner.

D. He prayed that the appeal may be rejected.

4. Heard both sides and perused the appeals.

Discussion and Analysis

5. The Appellant purchased the machinery from M/s. Macro Agencies under domestic invoices and paid the invoiced consideration, including applicable taxes. The alleged misdeclaration and wrongful availment of customs exemption arose at the import stage. The following circumstances favour the Appellant:

(i) The machinery was purchased domestically and not directly imported by the Appellant. The Appellant paid the invoiced price and domestic taxes but did not claim the customs exemption.

(ii) The invoices described the goods as computerized embroidery machines without representing that they qualified for a particular customs exemption.

(iii) The alleged fabrication of catalogues and misdeclaration related to the import transaction. No material has been shown to establish the Appellant’s participation or knowledge.

(iv) The Appellant is not responsible for knowing let alone independently proving every aspect of the upstream sellers tax compliance, when there are no allegations of the Appellant colluding with the importer in evading tax.

In **Amritlakshmi Machine Works Vs Commissioner of Customs (Import)** [2016 (335) E.L.T. 225 (Bom.)], the Bombay High Court distinguished Sections 112(a) and 112(b), holding that the latter requires knowledge or reason to believe that the goods are liable to confiscation. Mere facilitation without knowledge does not constitute abetment. Knowledge that goods are imported cannot, by itself, be equated with knowledge that they are liable to confiscation. Accordingly, an ordinary domestic purchase does not establish abetment under Section 112(a) or attract Section 112(b) merely because the importer allegedly obtained an exemption fraudulently.

5.1 The principle of caveat emptor does not dispense with the Department's burden to establish the statutory ingredients of the alleged contravention. Payment of the invoiced price and taxes is a relevant circumstance supporting the Appellant's case, though not conclusive by itself. In the absence of evidence establishing the requisite knowledge, reason to believe or participation, penalty cannot be sustained merely on the basis of the domestic purchase. Revenue has hence not discharged its burden and the impugned Order merits to be set aside.

6. There being no reference to the confiscation of the goods in this appeal, the same is not before me for consideration.

Conclusion

7. In view of the foregoing, the impugned order is set aside to the extent it imposes a penalty on the Appellant, with consequential relief, if any, in accordance with law. The appeal is disposed of accordingly.

(Pronounced in open court on 30.10.2026)

Sd/-
(**M. AJIT KUMAR**)
Member (Technical)

Rex