IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75535 of 2026

(Arising out of Order-in-Original No. 57/DSR(57)CC(ADJN.)/Mumbai/2025-26 dated 09.03.2026 passed by the Commissioner of Customs (Adjudication) Mumbai, 2nd Floor, Old Building, New Custom House, Ballard Estate, Mumbai-400001)

Shri Rajendra Jain, **: Appellant**
Flat No. 704, Mangalajoti, 227/2,
A J C Road, Kolkata-700020

VERSUS

Commissioner of Customs(Adjudication) **: Respondent**
Mumbai, 2nd Floor, Old Building,
New Custom House, Ballard Estate, Mumbai-400001

APPEARANCE:

Shri Sudhir Mehta, Sr. Advocate
Shri Riya Debnath, Advocate
for the Appellant
Shri Mihir Ranjan, Special Counsel
for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76568/ 2026

DATE OF HEARING: 28.10.2026
DATE OF PRONOUNCEMENT: 30.10.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The subject appeal relates to import of 13 consignments of import of silk yarn /polyester fabric imported by an importer, namely M/s Kamla exports under the Advanced Licenses, at Kolkata Port. The advance licenses were issued in the year 2002 and export obligations were discharged by the DGFT Authorities by deemed export through a company

M/s SAI International in the year 2005. One Mr. Shammi Chanana was one of the partners of M/s Sai International.

2. The facts of the case are that M/s Kamla Exports are engaged in the business of import and export, and it was a merchant exporter of silk fabric and garments for a long time. An investigation was initiated by officers of DRI against M/s Kamala Exports on the allegation that they have got the Export Obligation Discharge Certificate issued by DGFT by filing bogus documents of deemed exports to M/s. Sai International and that it has failed to fulfill its export obligation and therefore Custom Duty was evaded by it. DRI Mumbai investigated the imports made by M/s Kamala Exports at Tuticorin Port and Nhava Sheva Ports also.

2.1. During the course of investigation, it was found that 13 consignments were imported by M/s Kamala exports at Kolkata Port during the period 2004-2005 and out of 13 consignments, 9 consignments were procured by it from the foreign supplier by itself and 4 consignments were imported by it after purchasing the title documents on high seas. Out of the 4 consignments which M/s Kamla Exports imported at Kolkata Port on high seas, three consignments were purchased by it from two companies namely Topsia Estate Private Limited and RK Impex Private Limited. Rajendra Jain (herein after referred as the appellant) was a Director of both the companies namely Topsia Estate Private Limited and RK Impex Private Limited.

2.2. During the course of investigation, the Appellant was summoned by DRI and he was asked about his relationship with M/s Kamla Exports and

the nature of the transaction with M/s Kamla Exports. The appellant deposed on 15.02.2008 that he did not enter into any transaction with M/s Kamla Exports ever and the two companies namely RK Impex Private Limited and Topsia Estate Private Limited had sold on high seas three consignments of polyester fabric on the basis of two high seas contracts in course of the usual business and realised their payment dues through banking channel. High Sea sale were made by the companies not by the appellant. In course of the interrogation, the Appellant was confronted with a statement made by one Mr Shammi Channa who allegedly stated that he had sold a license of 50,000 sq. meter to one Raju Bhai. The Appellant denied the statement made by Mr. Shammi Channa and stated that he could not be the one Raju Bhai which has been referred by Mr. Shammi Chananan and that he had not purchased any license since he had never imported any goods and that both the company M/s Topsia Estate Private Limited and R.K. Impex PVt. Ltd. never bought any license, therefore, these charges are irrelevant and hence liable to be rejected as untrue.

2.3. DRI also investigated the Customs Broker, Mr. Bansi Badan Mandal and asked him about the clearance of the goods and as to how he was paid and how he got the documents and filed the Bills of Entry. Mr. Bansi Bedan Mandal, the Customs Broker deposed in his statement that he was introduced to M/s Kamla Export through one common friend, namely Raju Mohta, and thereafter he cleared the 13 consignment imported after obtaining documents from proprietor of the company, namely Mr. Krishna Khote who was owner of the company . He got the payment from Mr. krishna Khot and thereafter

despatched the goods to Mumbai and Delhi as per direction given to him. In course of investigation, it was found that the goods were transported by two transporting companies, namely M/s Karni Transport and M/s Inland Road Transport Corporation and it was found that they dispatched the goods on the instructions by Mr. Bansi Badan Mandal to M/s Kamla exports and submitted transit documents for movement of goods from Port to the place of destination, which were duly issued by sales tax authorities, both at the state as well as at the central level.

2.4. On completion of the investigation, a show cause notice dated 9th February 2009, was issued wherein it was alleged that the imports made by M/s. Kamla Exports at Kolkata Port were done by the Appellant jointly and severally with others. The Notice mainly relied on the retracted statement made by one Mr. Shammi Chanana, wherein he alleged that he has sold one advance license of 50,000 sq. meter to one Mr Rajubhai. The investigaton officers presumed that Mr. Rajubhai mentioned by Mr. Shammi Channa was infact Rajendra Jain, the Appellant and *interalia* proposed to demand of customs duty jointly and severally from the Appellant and many others. The Notice also proposed imposition of penalty on the Appellant among many others.

2.5. On adjudication, the Ld. Commissioner has adjudicated the Notice and confirmed the customs duty of Rs.21760744.72 jointly and severally from the Appellant as well as from many others. He also imposed *interalia* a penalty of Rs.21760744 under

section 112 (a) and Rs.2 Crore under section 114AA of the Customs Act on the Appellant.

2.6. Aggrieved against the demand of customs duty jointly and severally from him and against the imposition of penalties on him, the Appellant has filed this appeal.

3. The submissions made by the Appellant are summarized as under:

(i) In the impugned order it has been alleged that the imports made by M/s. Kamla Exports at Kolkata Port were actually done by the Appellant jointly and severally with others. To arrive at this conclusion, the Ld. adjudicating authority has relied upon on the retracted of statement made by one co accused Mr. Shammi Chanana, wherein he alleged that he sold one advance license of 50,000 sq. meter to one Mr Rajubhai. The said license has been used by two companies namely Topsia Estate Pvt. Ltd. or R.K. Impex (P) Ltd. However, no charge has been made in the Show Cause Notice on the two companies who sold the documents. The Show Cause Notice was issued to the appellant and the company was not charged in the Show Cause Notice.

(ii) In any event, the sale of license has no bearing with the import made at Kolkata Port unless it is proved that goods were released on the basis of such license. So much so, no license number alleged to have been sold has been given in the show cause notice. The appellant had denied and disputed the statement of Mr. Shammi Chanana with material evidence for which no exception was taken in course of investigation which also amounted to admission by the Department.

(iii) The show cause notice was issued to the appellant without there being any material that any import is connected with the license and that the appellant has participated in clearance of the goods in any manner what so ever.

(iv) The appellant was not related in any manner with filing of the Bill of Entry and the goods which would render the goods imported liable for confiscation. There was no mention of any license number sold to the appellant in respect of which import were made by M/s Kamla Exports. The statement of Mr. Shammi Chanana was vague that it had no probative value. The statement if read as a whole it would appear that he stated that he did not know about import of the goods.

(v) There is no evidence brought on record which could the Appellant as importer of the goods. There is no such charge or material either in the show cause notice or in the impugned order which would constitute any cause of action for treating the appellant as importer of the goods or for penalty. There is no material in the show cause notice or in the impugned order that the appellant represented as importer or owner of the goods at any point of time. There is no link of the appellant with the goods. Merely on the basis of a retracted statement made of Mr. Chanana that he sold a license of 50,000 sq. meter to one Raju Bhai, no inference can be drawn that the appellant imported the goods. It is logically erroneous /fallacy.

(v) Mr. Bansi Badan Mandal, the Custom Broker who filed the Bills of Entry has stated that he was introduced with M/s Kamla Export through one Mr. Rajubhai, who was identified to be one Mr. Raju

Mohta and not the appellant. Mr. Bansi Badan Mandal submitted statutory documents showing receipt of the goods in the statutory portal of M/s Kamla Exports which attracts statutory presumption of existence of situation which has neither been rebutted nor challenged in the show cause notice or in the impugned order.

(vi) The Custom's Broker Mr. Bansi Badan Mandal made the statement that he dealt with the import in respect of advance licenses given to him by M/s. Kamala Export. He got the documents from M/s Kamla Exports. He stated that he has delivered the goods to M/s Kamla Exports. He obtained transit permissions on the basis of statutory documents sent by M/s Kamla Exports.

(vii) There is no material to ascertain advance license allegedly sold and reciprocal imports using the license. Suspension of license came after clearance of the goods in the year 2005- 2006 after the expiry of the license when export obligation was discharged. Such suspension and cancellation of the license in the year 2009 was futile after expiry of the licence. At the time of import licenses were valid.

(viii) Transporters namely M/s Inland Transport Company and M/s Karni Transport Company in course of this respective statements stated that they delivered the goods to M/s Kamla Exports after taking necessary acknowledgment.

(ix) The adjudication order does not show any where that the appellant could be treated as owner of the goods or held as owner of the goods or as importer within the meaning of Section 2(26) of the Custom Act, 1962. The duties were paid by Kamla exports.

In that case, any short levy could be demanded from it only. The adjudicating authority without any logical reasoning passed the order holding that Appellant as joint and several importer of the goods with M/s Kamla exports, C Mohammed Sajid Khan, Mr. Sammi Channa , Mr. Satish Ganatra, Mr. krishna Khot which is not permissible under the Act. Such finding is not only perverse but not permissible in law in as much as provisions of Custom Act does not permit such deemed fiction of joint and several importer and liability of penalty and duty.

(x) This Tribunal has held in case of Mohan Kumar More versus Commissioner of Customs Kolkata reported in 137 ELT 225 that if duty is paid by a buyer or importer, short duty can be levied only from the same importer not from the person who sold the goods on high sea sales basis.

(xi) In the case of Baba Baidya Nath Trading Company versus Commissioner of Customs reported in 23 CENTEX 320 this Tribunal has held that there is no provision under the Act for joint and several demand of duty , imposition of penalty or fine under the act,

(xii) In the case of Commissioner of Customs versus Virendra Hans Raj Gandhi reported in 155 ELT128, it has been held that only the person chargeable with duty can be proceeded for realisation of demand of duty not high sea seller and it cannot be treated as importer of the goods.

(xiii) There is no material that the appellant dealt with the goods or filed the bill of entry or made over any document in relation to the bill of entry to the Customs Broker, or he dealt with the goods in any

manner whatsoever, and therefore, there could not have been a charge of penalty under section 112 (a) or (b) 114AA the Custom Act 1962. The show notice did not disclose any cause of action against the appellant on the basis of which demand of duty could be made against the appellant or any penalty could be imposed on the appellant.

(xiv) On the basis of the above submissions, the Appellant prayed for setting aside the demands of customs duty demanded jointly and severally from him and set aside the penalties imposed on him.

4. The Ld. Special counsel made the following submissions:

(i) Duty-free imports of polyester fabrics were effected in the name of M/s. Kamla Exports at Kolkata Port under 13 Bills of Entry. Verification conducted by the officers of DRI revealed that the declared premises of M/s. Kamla Exports at Arthur Road Naka, Mumbai was a residential. Thus, the importing firm M/s. Kamla Exports was found to be fictitious.

(ii) Statement of Shri Shammi R. Chanana recorded, disclosing sale of the Advance Licence to the appellant (Shri Rajubhai @ Rajendra Jain) against premium.

(iii) JD DGFT intimated that vide OIO all 20 Advance licences including 3 advance licences pertaining to Kolkata was cancelled void ab-initio and IEC no 0396025749 allotted to M/s Kamala Exports was made inoperative. Further a fiscal penalty of Rs1,00,00,000/- was imposed on M/s Kamla Exports and its proprietor

(iv) The three Advance Licences used for imports by the Appellant were non-transferable, and the duty-free benefit flowed from Notification No. 43/2002-Cus dated 19.04.2002, under condition (iii), which required fulfilment of the export obligation and prohibited the transfer or sale of the licences and the imported materials. In breach of this, the licences were fraudulently obtained and subsequently sold in the market, and duty-free goods were imported in the name of M/s. Kamla Exports at Kolkata, Tuticorin and Nhava Sheva Ports and diverted to the domestic markets of Delhi, Bhiwandi and Mumbai.

(v) The statement of Shri Shammi R. Chanana dated 26.11.2008, states that in January 2004 he sold the Advance Licence issued to M/s. Kamla Exports (covering imports at Kolkata Port) to Shri Rajubhai @ Rajendra Jain for a premium; that payments were received from the appellant by courier/angadia for the release of import documents from the bank and for clearance charges. The documents were forwarded to the appellant after they were retrieved from the bank; and that, after clearance, the goods were sent to Delhi at the appellant's instance, with freight arranged by him.

(vi) In the statement recorded under Section 108 on 15.12.2008, the Appellant himself admitted that he is dealing in polyester fabrics, having known Shri Shammi Chanana for over 20 years, and disclosed high-sea-sale transactions in respect of three consignments (two by M/s. R.K. Impex (P) Ltd. and one by M/s. Topsia Estates (P) Ltd.)

(vii) The investigation found that the Appellant was the actual person behind the imports of all the 13 consignments imported through Kolkata port. The

Appellant used the IEC of the fictitious firm M/s. Kamla Exports for importing the impugned goods

4.1. Regarding the demand made jointly and severally from various persons, it is submitted that the proposal to recover the duty pertains to the imports made at Kolkata port jointly and severally from six persons, including Shri Rajendra Jain originated from the SCN. The notice must first be examined as a whole to ascertain whether it already pleads the facts necessary to make Shri Rajendra Jain the statutory importer and duty debtor for the identified consignments. He admitted that the decisions cited by the Appellant disfavour recovery of duty on a joint and several basis from persons not shown to be importers. However, in the present case the appellant is not such a stranger but the very person who procured the imports. Where more than one person answers the importer description in respect of the same goods, recovery from such persons has been upheld in the case of Sundaram Finance Ltd. v. Commissioner of Customs, CESTAT, order dated 02.03.2012).

4.2. In Danavarshini Exports (P) Ltd. v. Commissioner of Customs, Chennai-VII, Final Order Nos. 41502–41527/2025 dated 18.12.2025, the show-cause notice proposed recovering duty jointly and severally from the noticees, and the order-in-original confirmed that demand. The Tribunal considered the objection to a joint and several demand and set aside the OIO, remanding the matter to determine the actual person liable for the duty. This indicates that each noticee’s proper duty liability must be determined; the demand cannot be upheld against all noticees solely on a joint and

several basis. The Tribunal left all contentions open. It did not hold that every such SCN is valid, guarantee a remand in every case, or expressly prohibit a fresh notice.

4.3. In the case of R. Dewakar v. Commissioner of Customs (Seaport, Imports), Chennai, Final Order No. 41067/2026 dated 06.10.2026, paragraphs 36–41, sets aside a joint-and-several recovery direction but fixes duty on the actual importer from the existing record, without remand. This supports modification where the pleaded case and evidence permit identification of the chargeable person.

4.4. In view of the above submissions, the Ld. Special Counsel prayed for rejecting the appeal filed by the Appellant.

5. Heard both sides and perused the documents placed before us.

6. Before going into the merits of the case, we would first address the issue of sustainability of the demand raised and confirmed in the impugned order jointly and severally from the Appellant and six others. We find that there is no provision available in the Custom Act to demand duty jointly and severally from many persons. It is a fact on record that the Appellant Shri Rajendra Jain was not the statutory importer. We observe that Section 28 of the Customs Act, does not envisage recovery of customs duty on a joint and several basis from persons who are not the importers. Section 28 of the Customs Act does not provide for collective recovery. We find that the impugned order failed to specifically identify the person who is liable to pay the customs duty and demanded it from many persons which is not

permissible under the Customs Act. In the case of Baba Baidya Nath Trading Company versus Commissioner of Customs reported in 23 CENTEX 320 this Tribunal has held that there is no provision under the Customs Act for joint and several demand of duty, imposition of penalty or fine. The relevant part of the said order is reproduced below for ready reference:

> *30. The Appellants states that the show cause notice was not issued under Section 28 of the Customs Act. Out of the 20 bills of entry 5 number of bill of entry imported by Appellant 1 and 3 bills of entry filed by Appellant 2 were provisionally assessed and on provisionally assessed bills of entry Section 28 was not applicable. Accordingly, they contended that the demand of duty under Section 28(4) of the Customs Act is erroneous. The adjudicating authority erred by holding that the declaration given in the bill of entry wrong and the goods could not held liable for confiscation under Section 111 (m) of the Customs Act. Section 111(o) of the Customs Act was also not applicable.The adjudicating authority demanded duty from the Appellants jointly and severally and imposed redemption fine and penalty jointly and severally which is contrary to law. We find merit in the arguments of the Appellants. There is no provision of demanding duty and imposing penalty jointly and severally from the Appellants. Accordingly, we hold that the demands are not sustainable on this count also.*

6.1. In the case of Commissioner of Customs versus Virendra Hans Raj Gandhi reported in 155 ELT 128, it has been held that only the person chargeable with duty can be proceeded for realisation of demand of duty not high sea seller. In this case, we find that the bills of entry were filed by M/s Kamala exports. Duty liability was discharged by M/s. Kamla exports. Thus, short levy of customs duty, if any, has to be demanded only from the importer. The duty cannot be demanded from the person who sold the goods on High Sea Sales basis. This view has been held by the Tribunal in the case of Mohan Kumar More versus Commissioner of Customs Kolkata reported in 137 ELT 225, wherein it has been held as under:

> *4. After considering the submissions made from both the sides, we agree with the submissions made by the ld. Advocate. The appellant was only high-sea seller. It is admitted on record that the duty leviable on the goods was paid by M/s. A.N. Ash (P) Ltd. when the Customs duty leviable on the goods has been paid by the persons who have bought the goods from the appellant, the differential duty, if any, is also liable to be paid by him. The appellant who has sold the goods to the other importer cannot be held to be the importers so as to pay the differential duty. We also take note of the fact that the Commissioner himself has come to a conclusion that no deliberate offence under the Customs Act, had been committed by the appellant and consequently he has not imposed any penalty on him. As such, in view of our foregoing discussions, we set aside the*

impugned order in so for as the same relates to the appellants and allow his appeal with consquential relief, if any.

6.2. Thus, we find that there is no provision under the Customs Act, to demand duty jointly and severally. Also, the duty cannot be demanded from the person who sold the goods on High Sea Sales basis. In this regard we have perused the submissions made by the Ld. Special Counsel. He has cited the decision in the case of Sundaram Finance Ltd. v. Commissioner of Customs, CESTAT, order dated 02.03.2012 and contended that where more than one person answers the importer description in respect of the same goods, recovery from such persons has been upheld. We find that the facts in the case of Sundaram Finance Ltd are not comparable with the present case. In that case, the Bills of Entry were jointly filed and hence the proposal of joint demand was considered, which is not the case here.

6.3. The Ld. Special counsel also cited the decision in the case of Danavarshini Exports (P) Ltd. v. Commissioner of Customs, Chennai-VII*, Final Order Nos. 41502–41527/2025 dated 18.12.2025, wherein the Tribunal has set aside a joint and several demand and remanded the matter to determine the actual person liable for the duty. He also cited the decision of R. Dewakar v. Commissioner of Customs (Seaport, Imports), Chennai, Final Order No. 41067/2026 dated 06.10.2026, wherein the Tribunal has set aside a joint-and-several recovery direction but fixes duty on the actual importer from the existing record, without remand. We find that the decisions cited by the Ld. Special Counsel are not

applicable to the facts and circumstances of this case. In the present case, it is on record that the Appellant has not filed the Bills of Entry and paid the duty at the time of clearance. Hence, demand on account of short levy, if any, can be made only from the actual importer and not from the Appellant. Thus, the decision cited supra is not applicable to the facts and circumstances of this case.

6.4. Thus, we hold that the demand raised and confirmed in the impugned order jointly and severally from the Appellant is legally not sustainable. Hence, we hold that the demands of duty confirmed jointly and severally qua the Appellant and the penalties imposed on him are liable to be set aside on this ground itself.

7. Regarding the merits of the case, we find that M/s Kamala exports have imported polyester fabrics under 13 Bills of Entry through Kolkata port during the period 2004-2005. Out of the 13 consignments, 9 consignments were procured by it from the foreign supplier directly and 4 consignments were imported by it after purchasing the title documents on high sea sales basis. Out of the 4 consignments which M/s Kamla Exports imported at Kolkata Port on high seas, three consignments were purchased by it from two companies namely Topsia Estate Private Limited and RK Impex Private Limited. Rajendra Jain, the appellant herein was a Director of both the above companies. Thus, we find that M/s. Kamla Exports were the actual importers in respect of the goods covered under all the 13 Bills of Entry. The Appellant was no way concerned with the imported goods except that he was a Director in two of the

companies which sold the goods on high sea sales basis to the importer M/s. Kamla Exports.

7.1. The allegation of the department is that the imports made by M/s. Kamla Exports at Kolkata Port were actually done by the Appellant jointly and severally with others. To arrive at this conclusion, the Ld. adjudicating authority has relied upon on the retracted statement made by one co accused Mr. Shammi Chanana, wherein he has stated that he sold one advance license of 50,000 sq. meter to one Mr Rajubhai. The said license has been used by two companies namely Topsia Estate Pvt. Ltd. or R.K. Impex (P) Ltd. The Appellant contended that he was not the person mentioned as Raju Bhai, in the statement of Shammi Channa. The appellant was never called Raju Bhai. There was one Mr. Raju Mohta who was dealer of transferable advance licences, who could be the person mentioned in the statement of Mr. Shammi Chanana. We find merit in the submission of the Appellant. In his statement Shammi Chaanna mentions a person by name Raju Bhai, which cannot be presumed by the Revenue as Rajendra Jain, the Appellant herein. We find that there is no evidence brought on record to establish that Raju Bhai mentioned in the statement of Shammi Channa and the Appellant Rajendra Jain are one and the same.

7.2. We find that the Appellant was no way concerned with the imported goods except that he was a Director in two of the companies which sold the goods on high sea sales basis to the importer M/s. Kamla Exports. In this regard, we find that no charge has been made in the Show Cause Notice on the two companies who were said to have sold the

goods on high sea sales basis to M/s. Kamla Exports. The Show Cause Notice was issued to the appellant, but the companies were not charged in the Show Cause Notice. The use or misuse of the license, if any, should have been done only by the Company and not by the Appellant. Thus, we find that the allegation of misuse of the License by the Appellant is not sustainable without establishing any charge against the companies. In any event, we find that the sale of license has no bearing with the import made at Kolkata Port unless it is proved that goods were released on the basis of such license.

7.3. We find that there is no evidence brought on record to establish that the Appellant was the actual importer of the goods. For treating a person "importer" of the goods it must be established that the said person has filed bills of entry for clearing the goods and he was the actual owner of the goods after it's clearance. In the present case, we find that there is no such charge or material brought on record either in the show cause notice or in the impugned order, which would constitute any cause of action for treating the appellant as importer of the goods. There is no material in the show cause notice or in the impugned order that the appellant represented as importer or owner of the goods at any point of time. We find that there is no link of the appellant with the goods. Merely on the basis of a retracted statement of Mr. Shammi Chanana that he sold a license of 50,000 sq. meter to one Raju Bhai, no inference can be drawn that the appellant imported the goods. It is logically erroneous.

7.4. From the available records, we find that the 13 Bills of Entry were filed in Kolkata Port in the

name of M/s. Kamla Exports. Mr. Bansi Badan Mandal, the Customs Broker who filed the Bills of Entry submitted that he has received the documents from M/s Kamla Exports; he dealt with the import in respect of advance licenses given to him by M/s. Kamala Exports; he has delivered the goods to M/s Kamla Exports; he obtained transit permissions on the basis of statutory documents sent by M/s Kamla Exports; Kamla Exports have obtained the Certificate for fulfilment of the export obligations from DGFT. Thus, we find that all the evidences available on record indicates that the Appellant was not the importer of the goods. Accordingly, we hold that the Appellant was not the importer in this case and hence customs duty cannot be demanded from him directly or jointly and severally.

8. Regarding the penalties imposed on the Appellant, we find that penalties have been imposed on him under the Sections 112 (a) and 114AA of the Customs Act, 1962. In the preceding paras, it has been established that the Appellant was neither the importer nor the owner of the goods. The only allegation against him for imposing the penalties is that he has purchased a License which was said to have been used by M/s. Kamla Exports for clearance of the impugned goods without payment of duty. However, we find that there is no material evidence available on record to ascertain that advance license allegedly sold to the Appellant have been used for clearance of imports. It is also a fact on record that the suspension of license came after clearance of the goods in the year 2005- 2006 after the expiry of the license when export obligation was discharged. It is an admitted fact that the licenses were valid at the time of import. There is no material evidence

available on record that the appellant dealt with the goods or filed the bill of entry or dealt with any document in relation to the bills of entry to the Customs Broker, or he dealt with the goods in any manner whatsoever. Thus, we hold that the ingredients required for imposition of penalties under the sections 112 (a) and 114AA of the Custom Act 1962 are not available in this case. Accordingly, we hold that the penalties imposed under the sections 112 (a) and 114AA of the Custom Act 1962 are sustainable and hence we set aside the same.

9. In view of the above findings, we pass the following order:

(i) The Appellant was not the importer in respect of the goods covered under all the 13 Bills of Entry in question.

(ii) The demand of customs duty confirmed jointly and severally qua the Appellant in the impugned order is legally not sustainable and hence the same are set aside.

(iii) The penalties imposed on the Appellant under section 112 (a) and 114AA of the Custom Act 1962 are not sustainable and hence the same are set aside.

(iv) The appeal filed by the Appellant is disposed of on the above terms.

(Order Pronounced in Open court on 30.10.2026)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP