



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 39444 OF 2025 (S-RES)

BETWEEN:

1. SHRI.K.ANANTHAPADMANABHA RAO
S/O SHRI K. RAMEHSHA RAO
AGED ABOUT 57 YEARS
RESIDING AT-14/1, (32)
POOJA POWER COMPOUND
17A CROSS, MALLESWARAM WEST BENGALURU
560055

...PETITIONER

(BY SRI. PRANAY SHARMA Y., ADVOCATE)

AND:

1. THE COMMISSIONER OF CENTRAL TAXES
NORTH WEST COMMISSIONERATE
BMTc BUILDING, SHIVAJINAGAR
BENGALURU - 560051
2. THE CHIEF COMMISSIONER
OF CENTRAL TAX CENTRAL REVENUE BUILDING
QUEENS ROAD
BENGALURU - 560001
3. THE ASSISTANT COMMISSIONER OF
CENTRAL TAX INQUIRY OFFICER, NW-DIVISION-3
NORTH WEST COMMISSIONERATE BMTc BUILDING,
SHIVAJINAGAR, BENGALURU - 560051





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NC: 2026:KHC:23440
WP No. 39444 of 2025

...RESPONDENTS

(BY SRI. ARAVIND V CHAVAN.,ADVOCATE)

THIS WP IS FILED PRAYING TO-QUASH THE ORDER IN ORIGINAL NO. 01/2025 PASSED BY THE R1 DATED 10.11.2025 VIDE C NO. II/10A/01/2023 VIG BNW VIDE ANNEX-A DISMISSING THE PETITIONER FROM SERVICE OF POST OF SUPERINTENDENT OF CENTRAL TAX, NORTH WEST COMMISSIONERATE.B. DIRECT THE RESPONDENTS TO REINSTATE THE PETITIONER AND PROVIDE SALARY TO THE PETITIONER RETROSPECTIVELY ALONG WITH INTEREST AS APPLICABLE.C. ALTERNATIVELY, DIRECT THE CENTRAL ADMINISTRATIVE TRIBUNAL (CAT) TO ADMIT THE APPEAL OF THE PETITIONER AND PROVIDE FOR STAY OF THE ORDER CHALLENGED TILL THE ADMIT OF THE APPEAL BEFORE THE HONORABLE TRIBUNAL.D) DIRECT THE RESPONDENTS TO PAY THE COSTS OF THIS WP.GRANT AN INTERIM ORDER TO STAY THE OPERATION OF THE ORDER IN ORIGINAL NO. 01/2025 PASSED BY THE R1 DATED 10.11.2025 VIDE C NO. II/10A/01/2023 VIG BNW DISMISSING THE PETITIONER FROM SERVICE OF POST OF SUPERINTENDENT OF CENTRAL TAX NORTH WEST COMMISSIONERATE, VIDE ANNEX-A.C

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioner has sought for the following reliefs:

“a) Issue a writ of the certiorari quashing the Order in Original No.01/2025 passed by the Respondent No.1 dated 10.11.2025 vide C.No.II/10A/01/2023 Vig BNW vide Annexure A dismissing the petitioner from service of post of SUPERINTENDENT of Central Tax, North West Commissionerate.

b) Direct the Respondents to reinstate the petitioner and provide salary to the petitioner retrospectively along with interest as applicable

c) Alternatively, Direct the Central Administrative Tribunal (CAT) to admit the appeal of the petitioner and provide for stay of the order challenged till the admit of the appeal before the Hon'ble Tribunal.

d) And pass such other orders as this Hon'ble Court deems fit and proper in the interest of justice and equity

e) Direct the Respondents to pay the costs of this Writ Petition.”



2. Heard learned counsel for the petitioner and learned counsel for the respondent Nos.1 to 3 and perused the material on record.

3. A perusal of the material on record will indicate that the disciplinary proceedings having been initiated against the petitioner, by the respondents, a charge memorandum dated 10.10.2023 was issued as against the petitioner, in pursuance of which, an enquiry report dated 27.12.2024 was submitted, to which, a disagreement note dated 31.03.2025 was issued whereby it was held that the charges framed against the petitioner were proved.

4. Subsequently, there were criminal proceedings in Special CC No.29/2023 in which, the petitioner filed a discharge application and the same was pending consideration. Under these circumstances, the petitioner submitted a representation/request for an opportunity of personal hearing on the ground that discharge application was pending in the criminal proceedings and the same having been posted for orders, an opportunity for personal hearing is to be granted in favour of the petitioner.



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5. It is the grievance of the petitioner that despite the specific request for personal hearing having been submitted by the petitioner vide Annexure - F dated 07.11.2025, the respondent did not exceed to the same and proceeded to pass the impugned order at Annexure - A dated 10.11.2025 immediately thereafter without providing sufficient and reasonable opportunity to the petitioner, thereby violating principles of natural justice and as such, petitioner is before this Court by way of the present petition.

6. Learned counsel for the petitioner would also invite my attention to the memo dated 21.04.2026 along with the documents produced with the same in order to point out that subsequent to the impugned order, the Sessions Court/Special Court discharged the petitioner / accused No.2 vide Order dated 14.01.2026 which would have a direct and substantial bearing/impact on the impugned order of dismissal which deserves to be set aside and the matter remitted back to the respondent for reconsideration afresh in accordance with law.

7. It is also pointed out that against the order passed by the Customs Department, the petitioner had filed an appeal which also culminated in an order dated 30.12.2025, which was



demanded for de novo adjudication, which circumstance would also have a bearing/impact on the impugned order and against the impugned dismissal order passed against the petitioner. It is therefore submitted that the impugned order deserves to be set aside and the matter remitted back to the respondent for reconsideration afresh in accordance with law.

8. Per contra, learned counsel for the respondent would reiterate the various contentions urged in the statement of objections and submits that there is no merit in the petition and the same is liable to be dismissed especially when the petitioner has an equally efficacious alternative remedy by way of an appeal against the impugned order and as such, there is no merit in the petition and the same is liable to be dismissed.

9. A perusal of the material on record will indicate that it is an undisputed fact and a matter of record that the impugned order came to be passed on 10.11.2025. About 3 days prior to the date of the impugned order, the petitioner submits a representation vide Annexure - F dated 07.11.2025 requesting an opportunity for personal hearing on the ground that an discharge application filed by him in Special CC No.29/2023 in which, he was arrayed as



accused No.2 was pending before the Sessions Court/Special Court. The said representation reads as under:

"From,

*K.Ananthapadmanabha Rao
Superintendent
Northwest Commissionerate
Bengaluru*

To,

*The Commissioner
Disciplinary Authority
Northwest Commissionerate,
Bengaluru*

*Subject: Charge memorandum issued on
10/10/2023-requesting for an additional
opportunity to present the defence in
person in the matter-Rg*

In the above matter, it is submitted that, in the original matter and root cause for the issue of the Charge memorandum, ie., the show cause notice dated 24-1-2022 issued by the Additional Commissioner of Customs, ACC Bengaluru, the issue has been decided by the adjudicating authority and the gravity of charges levelled against the under signed in the SCN has been reduced substantially, i.e., by over 90%. Further, an appeal has been preferred. against the same and the same is fixed for PH on 12th November 2025.



Further in respect of the action initiated by the ACB, Bengaluru in the matter on the request of the department, the undersigned has filed an discharge application and the arguments on the same has completed on 5-11-2025 and the matter is posted for orders.

Considering the above factors and more likelihood of decisions in both above mentioned matters will be available very shortly, I request the benign Disciplinary Authority to provide me an opportunity to present the out come of the parallel proceedings in person before taking any further decision in the disciplinary proceedings, please.

The undersigned will be grateful to the Commissioner Sir for the above act of kindness.

*Place:Bengaluru
Date: 6/11/2025*

Yours faithfully,

*[K.Ananthapadmanabha Rao]
Superintendent"*

10. It is also a matter of record and undisputed fact that subsequently, the Sessions Court/Special Court allowed the discharge application vide Order dated 14.01.2026 which reads as under:



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"ORDERS ON APPLICATION U/S 239 OF CR.P.C:

The accused No.2 has filed this application under Section 239 of Cr.P.C., seeking discharge for the allegations/offences punishable under sections 120-B r/w section 420 of IPC and Sections 7 and 8 of Prevention of Corruption Act 1988.

2. It is averred in the application that the alleged omissions and commissions attributed to this accused are in fact integral part of his duties done in discharge of duty and any act would entail for dereliction of duty. The accused being public servant there is need for obtaining sanction under section 197 of CRPC and sanction under section 19 of P.C.Act alone is not sufficient. Further under section 155 of Customs act, accused being customs officer has immunity from prosecution. The acts done by this accused are done in good faith and in bonafide discharge of his official duties. It is further averred that only Special court established under Prevention of Corruption Act is having jurisdiction to try the offence if specifically notified. If not notified the trial would be rendered illegal.

3. It is further averred that there is no ingredient forth coming to attract offence under section 120-B of IPC and section 8 of P.C.Act. There is no conspicuous material of meeting of minds amongst the accused persons. The matter with regard to offence of illegal export of red sanders is already investigated by DRI Bengaluru and show cause notice was issued to this accused under customs act. The



same is pending for adjudication and Departmental enquiry is also pending. The show cause notice issued by DRI and charge sheet submitted by CBI arise out of same facts, circumstances, documents. The allegation against this accused no.2 is far from truth, not factual, and based on assumption and presumption.

4. It is further pleaded that the charge sheet is result of misconstruction of facts and circumstances and failure to understand established procedure under Customs act. The complaint suffers form disjointness, incompleteness, misconstruction and resulting failure of justice. There is lack of documentary evidence, the statements were recorded under threat, coercion. There is no proof of demand and acceptance of money. The other officers who allowed LEO for four shipments were not charge sheeted and the accused no.2 stands on same footing. But the same benefit is not given to this accused. The details of these grounds elaborately explained in the petition and sought discharge on the above referred grounds.

5. The learned Public Prosecutor has filed statement of objections wherein It is contended that, the petition filed by the petitioner/accused No.2 is devoid of merits and liable to be dismissed in limini. Based on the written complaint dated 08.09.2021 given by the Olo the Principal, Commissioner of Customs, Airport and Air Cargo Complex, Devanahalli, Bengaluru, a preliminary enquiry report dated 21.12.2021 was submitted by Shri. Deviprasad, PSI, CBI, ACB, Bengaluru. On



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the basis of the said report a case vide RC-15(A)/2021 has been registered on 22.12.2021 against Accused No. 1-Mr.C.Venkatesh, accused No.2-Mr.Anantha Padmanabha, accused No.3-Mr.Ravinder Pawar, accused No.4-Mr.Satish Kumar, accused No.5-Mr.Najeeb.Z and other unknown public servant for commission of offences punishable under sections 120-B of IPC and Section 7 of Prevention of Corruption Act alleging that they conspired for facilitating illicit export of the Red Sandal wooden logs. The Statement of CW-79 is relevant with regard to duties of Superintendent, Central Excise and document no-9 is relevant document with regard to the procedure to be followed by Inspectors and Superintendent of Customs while clearing the ICEGATE Portal by using shipping Bills through RMS/Assessment Channels.

6. It is alleged that, the accused No.5-Mr.Najeeb Zianudheen and accused No.4-Satish Kumar conspired with accused No.1-Venkatesh.C, who is the Superintendent of Customs and accused No.4-Sathish Kumar, office of Chief Commissioner's Office Customs, Bengaluru, acted as middlemen between accused No.5 and accused No.1 and agreed to do the documentation and other customs clearance formalities for the illegal export of Red Sandar. In pursuance of such conspiracy, accused No.5-Najeeb Zianudheen procured Red Sandars vide shipping bill No.2190821 D-8 and 10). Further, on the directions of accused No.5-Najeeb Zianudheen, accused No.4-Sathish Kumar mis-declared the goods for customs clearance. During the process of



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clearance, the said shipment was selected for physical examination by Risk Management System and accused No.3-Ravinder Pawar had given the examination report (D-10) stating that the goods were Industrial Spares as declared in the invoice even through the consignment was Red Sanders. Further accused No.3-Ravindar Pawar demanded accused No.4- to pay an amount of Rs.5 lakhs to clear the above consignment which was kept aside by the screening staff as they suspected it to contain wood. It is also revealed that accused -Ravinder Pawar told accused No.4-Sathish Kumar.T that the accused No.2-Sri.Anantha Padmanabha Rao, Superintendent had come to know about it.

7. Further, the accused No.3 immediately arranged the amount and gave Rs.2.5 lakhs in cash to accused No.3-Ravinder Pawar and transferred an amount of Rs.25,001/- and Rs.99,999/-from his ICICI Bank account No.431901500656 (D-13) to the bank account No.20015079351 (D-12) at SBI, PBB Branch, Malleswaram, which is in the name of Smt.Jayalakshmi Rao, mother of accused No.2-Sri.Anantha Padmanabha Rao on the same day. The screen shots taken from the Indian Customs EDI system shows that the petitioner/accused No.2 and accused No.3/Ravinder Pawar were on duty at Import Export shed of Air Cargo Complex on 03.06.2021 and facilitated in clearing the shipping bill No.2190821. The fact that, shipping bill No.2190821 was taken up for open examination is established through the data available in system and the X-ray image (D-8) taken in respect of the above consignment



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looked like wood and not industrial spares. Though a false report filed by accused No.3-Ravinder Pawar, the petitioner/accused No.2 violating the procedure let Export Order for the said consignment. Thus, the involvement of petitioner/accused No.2 in facilitating the illegal export of Red-Sanders herein prima facie shows that he is particeps in criminis of the conspiracy designed and executed by accused No.1-Venkatesh, accused No.3-Ravindar Pawar, accused No.4-Sathish Kumar and accused No.5-Najeeb Zianudheen to cheat the Customs Department by mis-declaring the goods and exported the consignments and the said accused customs officials obtained undue advantage from accused No.4 until it was intercepted by the DRI.

8. Issuance of the Let Export order by the accused No.2 and crediting of amount in the account of his mother, prima facie shows that in pursuance of such conspiracy, petitioner /accused No.2 aided the other accused in facilitating the illegal export of Red-Sanders. The allegations against the accused No.2/petitioner are supported by the statement of witnesses for oral evidence and relevant documentary evidence. As accused No.4 and 5 are willing parties in offering bribe and by not approached any investigating agency to report on the corrupt practices of accused No.1 and 3 and accused No.2. Hence, prays to reject the discharge application.

9. Heard the arguments from both side.



10. The Points that would arise for my consideration are as follows :-

1) Whether accused No.2 has made out grounds to discharge and allow the application filed under Sec. 239 of Cr.P.C.?

2) What Order?

11. My findings on the above points are as follows:

Point No.1: In the Affirmative.

Point No.2: As per the final order

for the following:-

:REASONS:

12. POINT NO.1: The accused has filed the application under section 239 of Crpc. The Section 239 of Cr.P.C., reads as under:

S. 239: When accused shall be discharged

If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall



discharge the accused, and record his reasons for so doing.

13. So, on understanding the provision it specifies, the obligation to discharge the accused under Section 239 Cr.P.C. arises when the Magistrate/Special Judge considers the charge against the accused to be groundless i.e, there is no legal evidence or when the facts are such that no offence is made out at all.

14. Before advertng to the factual aspects of the case, the well settled principles of law is required to be reiterated wherein it is held that the court at the time of considering the application seeking for discharge need not examine the materials in detail to ascertain whether there are grounds to award conviction. Only aspect the court is required to consider is to, sift and weigh the materials to ascertain whether the materials placed before the court indicate facially the commission of offence and if so the case has to be proceeded, to frame charges.

15. While considering the application under section 227 of Cr.P.C., as per the dictum of Hon'ble Apex Court in the case of **State Through Deputy Superintendent Of Police Versus R.Soundirarasu-2022 Live Law (SC) 741** has held as under:.

53. The aforesated Section indicate that the CrPC contemplates discharge of the accused by



the Court of Sessions under Section 227 in a case triable by it, cases instituted upon a police report are covered by Section 239 and cases instituted otherwise than on a police report are dealt with in Section 245. The three Sections contain some what different provisions in regard to discharge of the accused. As per Section 227, the trial judge is required to discharge the accused if "the Judge considers that there is not sufficient ground for proceeding against the accused". The obligation to discharge the accused under Section 239 arises when "the Magistrate considers the charge against the accused to be groundless". The power to discharge under Section 245(1) is exercisable when "the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if un-rebutted would warrant his conviction". Sections 227 and 239 resply provide for discharge being made before the recording of evidence and the consideration as to whether the charge has to be framed or not is required to be made on the basis of the record of the case, including the documents and oral hearing of the accused and the prosecution or the police report, the documents sent along with it and examination of the accused and after affording an opportunity to the parties to be heard. On the other hand, the stage for discharge



under Section 245 is reached only after the evidence referred to in Section 244 has been taken.

54. Despite the slight variation in the provisions with regard to discharge under the three pairs of Sections referred to above, the settled legal position is that the stage of framing of charge under either of these three situations, is a preliminary one and the test of "prima facie" case has to be applied - if the trial court is satisfied that a prima facie case is made out, charge has to be framed.

*16. The judgment of the Hon'ble High Court of Karnataka reported in **2022 (2) KCCR SN 135 (K.Manjunath Vs State and another)** wherein it has been held as :-*

Scope of discharge under Section 239 of Cr.P.C. is very limited. The Court cannot held a mini trial while considering the application and only look into the documents which have been filed along with the charge sheet. The defence cannot be raised in discharge application. Scope of Section 239 of Cr.P.C. is very limited. In a case where material is not collected, then Court can discharge the accused, if allegation made in the charge sheet is groundless, then



the Court can exercise power under Section 239 of Cr.PC. Petition dismissed.

17. *In the arguments advanced by the learned counsel for accused No.2, has more stressed upon the provision of Section 155 of Customs Act. It is contended that, as per this provision, the accused is having immunity from being prosecuted directly and if has to be prosecuted, notice has to be issued and charge sheet is to be filed within three months of the date of offence. However, in this case, the prosecution has not followed both and it is clear violation of this law which benefits the accused to seek discharge of the alleged offences. The learned counsel for the accused has emphasized on the point of following this law being special law barring invoking General Law. It is also highlighted that, the sanction for prosecution is only obtained under section 19 of PC Act, but, the sanction required under section 197 of Cr.P.C., for the offence alleged under IPC is not obtained from competent authority and this also is beneficial to the accused to seek discharge. It goes to the roots of the case and as such, the prosecution cannot be continued.*

18. *To understand better, the Section 155 of Customs Act is reproduced as under:*

155. *Protection of action taken under the Act.*

-(1) No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Government or



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a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act or the rules or regulations.

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

19. *The learned counsel for accused argued that, to decide whether sanction is necessary, the judgment in the case of **D.Devaraja V/s Owais Sabeer Hussain (2020)7 SCC 695** wherein it is held that, the test whether the act is totally unconnected with the official duty or whether there is reasonable connection with the official duty and in case of act of policeman or any other public servant unconnected with the official duty their can be no question of sanction. However, if the act alleged against the policeman is reasonably connected with discharge of his official duty, it does not matter if policeman has exceeded the scope of his powers and acted beyond the four corners of law (Para-70). The learned counsel for accused placed reliance on the judgment of Hon'ble Apex Court in the matter of **Jayalalitha V/s Union of India and others (1999)5 SCC 138** on the point of sanction required for prosecution. Another judgment in the*



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case of **G.C.Manjunath and others V/s Seetharam, (2025) 5 SCC 390** wherein Hon'ble Apex Court has clarified the essential conditions required to obtain sanction for prosecution. More particularly, the learned counsel for the accused relied upon the judgment of Hon'ble High Court of Punjab and Hariyana in the case of **Sunilkumar and others V/s CBI and others 2016 SCC Online P and H 613**. The learned counsel for accused has pressed upon the fact that, this judgment is aptly applicable to the facts of the case as the Hon'ble High Court of Punjab and Hariyana has discussed about the provision of Section 155 of Customs Act and based on that, has quashed the proceedings. Even, the judgment of Hon'ble High Court of Calcutta in the case of **Ashok Kumar Singh V/s State of West Bengal and another 2016 SCC Online Calcutta 1516**, wherein the Hon'ble High Court has also discussed the said provision and in the facts of the case, wherein he was examining officer of customs omitted to perform duty in order to assist the principal accused, to export goods improperly from India, applying section 155(2) of Customs Act, 1962 has given the benefit of immunity of prosecution.

20. Further, he has placed reliance on the orders passed by the learned Special Judge sitting in the 32nd Additional City Civil and Sessions Judge for CBI cases dated 03.03.2022 while dealing petition under section 239 read with section 227 of Cr.P.C., for the provisions under Passport Act specifically Section 15 is invoked and has given benefit of the



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said provision and for non production of sanction order discharged the accused.

21. The counter argument canvassed by the learned Public Prosecutor is on the point that, it is only they are protected if they act in good faith and taking bribe and doing illegal acts is not termed as good faith and hence, this immunity is not attracted to the case on hand. Even the learned public prosecutor who has filed synopsis of arguments, in that has also urged that the sanction as required under section 197 of Crpc is required when there is reasonable connection between act alleged and the duty of officer. But in this case it is totally unconnected and taking bribe for doing illegal act is not covered under good faith or in discharge of duty. Hence the judgment relied by other side is not applicable to case on hand.

22. Considering the rival submissions and after going through the judgment relied upon by the learned counsel for the accused, I am of the opinion that, the section 155 of Customs Act has not been followed by the CBI before prosecuting this accused. As it is admitted that, they have not given notice of one month in writing and the prosecution is launched after three months from accrual of such cause. Thereby it is only left to decide whether it is attracting the facts of the case to invoke provision under section 155 of Customs Act. As per the contents of the provision, it is protecting the Customs officers by any suit, prosecution or other legal proceedings to be initiated against them, if it is



done or intended to be done in good faith in pursuance of this act or the rules or regulations. The second sub section speaks about if prosecution is to be launched, one month prior notice to be given to the officer.

*23. In this case, it is admitted fact that this accused No.2 is Customs officer and the allegations leveled against him are punishable under section 120-B read with 420 of IPC and Sections 7 and 8 of PC Act. It is the allegation that, this accused No.2 being Superintendent of Customs let export order for the consignment and to be more specific a consignment which was containing load of Red sanders was allowed to pass through for export by suppressing the fact that it is containing such goods and mentioning it as Industrial Spares. Even though it has been brought to the knowledge of this accused No.2, he has aided them to pass through by accepting bribe to the account of his mother. Considering these facts, it is clear on the face of it that the act alleged is not to be said as distinctive, not connected to the the discharge of his official duty. The duty of the accused No.2 was to properly check the goods and if he has omitted to do so either intentionally or not, it is connected with discharge of his duty. In this regard the judgment of Hon'ble Supreme Court in Case of **Rizwan Ahmed Javed Shaikh and Ors. V/s Jammal Patel and Ors. 2001 INSC 281**_it is held as under:*

"The real test to be applied to attract the act which is done by a public office and is alleged to constitute an offence was done by the public officer whilst



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acting in his official capacity though what he did was neither his duty not his right to do as such public officer. The act complained of may be in exercise of the duty or in the absence of such duty or in dereliction of the duty, if the act complained of is done while acting as a public officer and in the course of the same transaction in which the official duty was performed or purported to be performed the public officer would be protected."

Thereby, in my opinion in this case as well the accused no.2 is protected under the umbrella of section 155 of Customs Act from being prosecuted. Hon'ble Apex Court in the case of **Costao Fernandes v. State at the instance of D.S.P., CBI, Bombay** has held:

"wherein a Customs Officer had a scuffle with a person alleged of smuggling gold and caused his death and when the CBI sought to prosecute the Customs Officer, came down heavily and held that the protection under Section 155 of the Customs Act was available to the Customs Officer as the killing cannot be divorced from the performance of duty enjoined by Section 106 of the Customs Act, 1962 though the act might be in excess. In the present case also, the petitioners were searching the premises and seizing documents under Section 105 of the Customs Act, 1962



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and the said official duty is inseparably linked to the allegation of interpolating two invoices and tampering with records seized under the cover of Panchanama. The allegations relate to the performance of official duties by the petitioners, hence, they were protected against the prosecution under Section 155(1) of the Customs Act, 1962".

24. *The Hon'ble Telangana High Court in the case of State Rep By Cbi vs Sri Rajnish Aggarwal And Another, in CRIMINAL REVISION CASE Nos.28 of 2009, 1942, 1947, 1948, 1949 and 1681,1701,1702,1703 and 1704 of 2008, decided on on 25 January, 2024 dealt with more or similar situation. The brief facts of the case are explained that during the period 2000-2001, the accused A1 to A8 entered into criminal conspiracy among themselves to cheat the Customs Department at Inland Container Deport, Sanathnagar, Hyderabad, in the matter if export of cheat and very small garments of uneven size and shape, which are unfit for use by any age group and have negligible value, in the guise of "Dyed/printed night-wears (maxies) in various style/size/design/colours made from P/L, Woven Fab valued at Rs.300 per piece under Duty Entitlement Pass Book (DEPB) scheme and attempted to export two consignments to Dubai from ICD, Sanathnagar, Hyderabad on 06.01.2001 in the name of M/s.Ganesh Yarntex Exports Pvt Ltd and M/s Aadee Exports and Imports by way of bogus documents.*



25. Applying the case law referred supra, the contention of learned PP that acting in good faith does not hold good. As the Hon'ble Apex Court has given the benefit of Section 155 of Customs Act in case of Murder committed by Officer of Customs which is in excess to his duty, in this case as well the act of accused in allowing export of goods suppressing the fact that it contains red sanders, is not dislinked to his discharge of duty. The allegations relate to the performance of official duties by the petitioner, hence, he is protected under Section 155 of the Customs Act, 1962.

26. In the present case, the allegations were made against the petitioner about cheating the Customs department, committing the offence of criminal conspiracy, and allowing illegal export of red sanders, attracting offences under section 120-B r/w section 420 of IPC. No doubt the Prosecution has obtained sanction order under section 19 of PC act from competent authority but there is no specific order showing sanction accorded under section 197 of CR. P.C to prosecute the accused for the offences under IPC. The offences were alleged to have been committed by the petitioner while performing the official duties. Section 197 of the Code of Criminal Procedure if construed too narrowly, it can never be applied, as it is no part of an official's duty to commit an offence and never can be, as observed by the Hon'ble Apex Court in **Shreekantiah Ramayya Munipalli and Anr. v. State of Bombay AIR 1955 SC 287.**



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*27. No narrow interpretation can be given to Section 197 Cr.P.C., as the acts alleged against the petitioner is reasonably connected in discharge of official duties. As such, cognizance cannot be taken by the Court without the requisite sanction of the appropriate Government. As such, taking cognizance of the offences by the Court without prior sanction is considered as illegal and void ab initio. The use of the words 'no' and 'shall' under Section 197 Cr.P.C. would make it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete and taking of the cognizance is barred under law. Further the judgments relied by accused no.2 are helpful in holding that he is protected under section 155 of Customs Act as well. In the case of **G C Manjunath vs Seetharam**, Hon'ble Apex Court has held as under:*

Para 34: The language of both Section 197 of the CrPC and Section 170 of the Police Act is clear that sanction is required not only for acts done in the discharge of official duty as well as for the acts purported to be done in the discharge of official duty and/or acts done "under colour of or in excess of such duty or authority". Sanction becomes mandatory if there is a reasonable connection between the act and the officer's official duties, even if the officer acted improperly or exceeded his authority.



28. Hence, considering the principle explained, in this case as well the act of accused if held as improper, even then he is protected under section 197 of Cr.P.C. Thereby on considering all these points this court is of the opinion that the CBI has not followed the mandate of section 155 of Customs Act and section. 197 of Cr.P.C and entitling the accused discharge. Hence I answer point No.1 in the **Affirmative..**

29. POINT NO.2 In view of my discussions on point No.1, I, proceed to pass the following:-

:ORDER:

The application filed by the accused No.2 under section 239 of Cr.P.C., for discharge is hereby allowed.

The accused No.2 is discharged of the alleged offences under section 120-B IPC R/w Section 420 IPC and under section 7 and 8 of PC act."

11. So also the Appellate Authority of the Customs Department set aside the order passed by the original authority and remitted the matter back to the original authority for reconsideration afresh at the instance of the petitioner as hereunder:



**OFFICE OF THE COMMISSIONER OF
CUSTOMS (APPEALS)**

*BMTC Building, Above BMTC Bus Stand, Domlur,
Bengaluru - 560071*

email-id-customs-appeals0037@gov.in

Phone: 080-25301983

*A.No.415,423,424&445/2025 Cus (B-Air) and 504/2025 Cus
(B-Air) (Dept)*

Date: 30.12.2025

DIN-20251272MR000000E621

Order-in-Appeal No. 939-943/2025

*Passed by Dr.Chetan R.C, IRS (C & IT)
Commissioner of Customs (Appeals)*

PREAMBLE

1. *This copy is granted free of charge for the private use of the person to whom it is issued.*

2. *Under Section 129 A (1) of the Customs Act, 1962 (as amended), any person aggrieved by this order can appeal to the South Regional Bench of the Tribunal having its Registry at 1st Floor, WTC Building, FKCCI Complex, K. G. Road, Bangalore 560 009. In case of Draw Back and Baggage related matters the appeal lies with the Principal Commissioner & Ex-Officio Additional Secretary to the Government of India, 14, "B" Wing, HUDCO Vishal Building, 6th Floor, Bhikaji Cama Place, New Delhi-110 066.*

3. *Appeal must be filed in the prescribed C.A. 3 as required vide Rule 6(1) of Chapter III of the Customs (Appeals) Rules, 1982 within 3 months from the date of communication of this order. In case of Draw Back and Baggage related matters Application must be filed in the prescribed C.A. 8 as required vide Rule 8A & 8B of Chapter*



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III of the Customs (Appeals) Rules, 1982 within 3 months from the date of communication of this order.

4. Appeal must be filed in quadruplicate and must be accompanied by:

a) Copy of the order and Order-in-Original, both in quadruplicate (one of which at least should be certified copy).

b) i) A Crossed Bank Draft for a sum of Rs.200/- (Rupees Two Hundred only) where the amount of duty demanded and penalty levied by the Customs Officer in the case to which the appeal relates is One Lakh Rupees or less,

ii) for a sum of Rs.1000/- (Rupees One Thousand only) where the amount of duty demanded and penalty levied by any Customs Officer in the case to which the appeal relates is more than One Lakh Rupees, to be obtained from a Nationalized Bank drawn in favour of the Assistant Registrar of the Bench of the Tribunal concerned and should be on the Bench of the Bank of the place where Registry of the Bench is situated.

5. An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute".

6. The documents authorizing the representative to sign and appear on behalf of the appellant, if the appeal by as authorized representative, specified under Rule 9 of Chapter IV of the Customs (Appeals) Rules, 1982 should accompany the appeal.

Appellant/Exporter	1	A.No. 415/2025	Shri K Ananthapadmanabha Rao, Superintendent of GST, 14/1,[32], Pooja Power Compound, 17-A Cross, Malleswaram West, Bengaluru-560055
	2	423/2025	M/s UDL Logistics Pvt Ltd., Sy.No. 136/9, Site No. 04% 05 Sneha Nagar, Kashi Nagar Main Road, Opp. SBI Bank, Amruthahalli, Sahakarnagar Post, Bangalore-560092
	3	424/2025	Shri K V Dushyanth, Director, M/s UDL



			Logistics Pvt Ltd., Sy.No. 136/9, Site No. 04& 05 Sneha Nagar, Kashi ashi Nagar Main Road, Opp. Post, Bangalore-560092 SBI Bank. Amruthahalli, Sahakarnagar Post, bangalore-560092
	4	445/2025	Shri C. Venkatesh, Superintendent of Customs and GST (Retd.), Flat No. B-503, Cauvery Serenity, No 10/1-1-46, Raghavendra Extension, Yeshwantpur, Tumkur, Bengaluru – 560022
Respondent			The Additional Commissioner of Customs, Airport & Air Cargo Complex Commissionerate, Bengaluru-560300
Authorized Representative for Appellant			1. Shri K Ananthapadmanabha Rao, Appellant for Sl. No. 1 2. Shri T Sundarnathan, Advocate, AR for Sl. No. 2 & 3 3. Shri C Venkatesh, Appellant for Sl. No. 4
Order in Original No./ Assessment Order			OIO No. 03/2025-26 dated 15.04.2025

AND

Appellant	A.No. 504/2025	The Assistant Commissioner of Customs, Export Assessment, Airport & Air Cargo Complex Commissionerate, Bengaluru-560300
Respondents	1	M/s UDL Logistics Pvt. Ltd. and its Managing Director Shri KV Dushyanth; Bangalore No. 411/2, 2nd Floor, 3rd Cross, Thalacauvery Layout, Bytrayanapura, Amruthahalli, Sahakarnagar Post, Bangalore-560092
	2	Shri Anantha Padmanabha Rao K, then Superintendent of GST and Customs, 14/1,[32], Pooja Power Compound, 17-A Cross, Malleswaram West, Bengaluru-560055
	3	Shri Ravinder Pawar, Superintendent of GST and Customs (the then Inspector), No. 104,



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		D-Block, Prasanahalli Village, House of Hiranandini, Chancery Building, Devanahalli, Bangalore-562110 (pawarpriya90958@gmail.com priya.khatkar@gmail.com)
Authoriized Representative for Appellant/ Respondents		1. Shri T Sundarnathan, Advocate, AR for Respondents Sl. No. 1 2. Shri K Ananthapadmanabha Rao, Respondent for Sl. No. 2 3. Shri K.V. Srinivasa Prasad, AR for Respondent Sl. No. 3
Order-in-Original No./ Assessment Order		OIO No. 03/2025-26 dated 15.04.2025

1. BRIEF FACTS OF THE CASE

1.1 The instant appeals are filed against OIO No. 03/2025-26 dated 15.04.2025 (hereinafter referred to as 'impugned Order'/'OIO) passed by the Additional Commissioner of Customs, Airport & Air Cargo Complex Commissionerate, Bengaluru-560300 (hereinafter referred to as the lower adjudicating authority/LAA1. Appeals have been filed by the parties as well as by the Department.

1.2 Appeals have been filed by Shri K Anandapadmanabha Rao, Superintendent of GST (hereinafter referred to as 'Appellant No.11, M/s UDL Logistics Pvt Ltd. (hereinafter referred to as 'Appellant No. 2), Shri K.V.Dushyanth, Director, M/s UDL Logistics Pvt Ltd (hereinafter referred to as 'Appellant No. 3) and Shri C. Venkatesh, Superintendent of Customs & GST (Retd) (hereinafter referred to as 'Appellant No. 4').

1.3 Appeal has also been filed by the Assistant Commissioner of Customs, Export Assessment, Airport & Air Cargo Complex Commissionerate, Bengaluru (hereinafter referred to as 'Appellant Department) being duly authorized by the Commissioner of Customs, Airport & Air Cargo Complex Commissionerate, Bengaluru against the decision in the impugned Order in respect of three noticees namely



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M/s UDL Logistics Pvt. Ltd. and its Managing Director Shri K V Dushyanth (hereinafter referred to as Respondent No. 1), Shri K Ananthapadmanabha Rao, Superintendent of GST (hereinafter referred to as 'Respondent No. 2) and Shri Ravindra Pawar, Superintendent of GST and Customs the then Inspector) (hereinafter referred to as 'Respondent No. 3)

1.4 The issue in brief is that based on specific intelligence, the Directorate of Revenue Intelligence (DRI) intercepted two export consignments at ACC, Bangalore, booked in the name of M/s TEAC Engineers UT2, under Shipping Bill Nos. 3378541 and 3378546, both dated 26.07.2021. The consignments were declared as "Industrial Ductile Pipes", but, upon examination were found to conceal 106 logs of Red Sanders Wood (Pterocarpus Santalinus) a prohibited item for export under CITES and the Foreign Trade Policy weighing 3.293 MT and valued at approximately Rs. 62.655 lakh. These goods were seized under Mahazar dated 29.07.2021.

1.5 Subsequent investigation revealed that the exporter had earlier fraudulently exported five other consignments, also concealing Red Sanders Wood. These five consignments booked under Shipping Bill Nos. 2577229, 2569607 both dated 21.06.2021, 2878013 dated 03.07.2021, 3158069 dated 15.07.2021 and 2190821 dated 03.06.2021 in the name of M/s TEAC Engineers UT2 or M/s. Gurmehar Impex covered a total of 6.821 MT of Red Sanders wood, valued at about Rs.129.77 lakh, which had already been exported by mis-declaring them as permissible goods.

1.6 Investigation further identified around 15 individuals and entities including drivers, logistics operators, and intermediaries, as part of a collusive network facilitating this smuggling activity. Accordingly, SCN No. 155/2021-22 dated 24.01.2022 was issued to the appellant. The LAA after having gone through the facts of the case, the reply received during PH and relevant legal provisions ordered for-

i. Absolute confiscation of 106 logs of "Red Sanders" wood totally weighing 3.293 MT valued at Rs.62.655 lakh attempted to be exported vide the Shipping Bill Nos. 3378541 and 3378546 both dated 26.07.2021 which were



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seized vide Mahazar dated 29.07.2021 in terms of the provisions contained under Section 113(d), 113(e), Section 113(h) and Section 113(i) of the Customs Act, 1962 (hereinafter referred to as 'the Act')

ii. Red sanders wood (Pterocarpus Santalinus) totally weighing 6.821 MT (not available physically) valued at Rs. 129.77 lakh which were fraudulently exported vide the Shipping Bill Nos. 2577229 and 2569607 both dated 21.06.2021; No.2878013 dated 03.07.2021; No.3158069 dated 15.07.2021 and No.2190821 dated 03.06.2021 through ACC, Bangalore, was liable for confiscation under Section 113(d), 113(e), Section 113(h) and Section 113(1) of the Act along with imposition of fine in lieu of confiscation in absence of appropriate proposal.

iii. Absolute Confiscation of the packing materials seized vide Mahazar dated 29.07.2021 at ACC, Bangalore in terms of provisions contained under Section 118 of the Act.

iv. Confiscation of the conveyance bearing number TN-23-CC-8516 seized vide Mahazar dated 29.07.2021 at ACC, Bangalore under Section 115 of the Customs Act, 1962 and in terms of Section 125 of the Act and ordered for payment of Ra 5,00,000 in lieu of said confiscation;

Further, penalties were imposed on the individuals and entities involved, the penalties imposed on the appellants/respondent in the present appeals are as under.

i) Appellant No.1/Respondent No.2: Imposed a penalty of Rs.8,81,461/- on Shri K.Anantha Padmanabha Rao (Noticee No. 13) under Section 114AA of the Act.

ii) Appellant No. 2&3/Respondent No.1: Imposed a penalty of Rs. 61,05/900/each on M/s UDL Logistics Private Limited and Shri K. V. Dushyanth, Managing Director (Noticee No.9), under Section 114AA of the Act.

iii) Appellant No. 4: Imposed a penalty of Rs. 2,86,214/- under Section 114(i) of the Act and Rs. 14,31,070/- under Section 114AA of the Act on Shri C.Venkatesh (Noticee No. 12).



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iv) Respondent No. 3: Imposed a penalty of Rs. 8,81,461/ on Shri Ravinder Pawar (Noticee No. 14) under Section 114AA of the Act.

Aggrieved by the impugned OIO, the appellants have filed the present appeals on the following grounds.

2. GROUNDS OF APPEAL: In view of the extensive submissions advanced by the appellants, it is neither practicable nor necessary to reproduce in extenso the repetitive or inconsequential grounds urged. Accordingly, only the material and relevant grounds have been succinctly set out herein, without prejudice to the appellants' contentions. For the sake of brevity, the entire grounds of appeal are not being reproduced verbatim.

2.1 Appellant No. 1: Shri K Ananthapadmanabha Rao:

2.1.1 The Respondent's logic, inferences, and findings for imposing penalty under Section 114AA of the Customs Act, 1962, are fundamentally flawed and unsupported by credible evidence. The order relies heavily on surmises, presumptions, and depositions from individuals such as Satish Kumar, Suresh, and others who lack statutory license, authority, or locus standi to act on behalf of exporters or customs brokers. Such reliance violates the fundamental principles of natural justice and established legal precedents. The appellant expressly draws on the rulings in **Union of India v. Raj Grow Impex, 2021 (377 ELT 145) SC**, and **Collector of Customs v. Sanjay Chandi Ram, 1995 (77 ELT 162) SC**, which hold that penalties for misdeclaration or fraud under Customs Act require concrete and corroborative evidence, not mere suspicion or unauthorized witness statements. The material facts and oral testimony relied upon lack credibility and contradict documentary evidence, making the penalty order arbitrary, unjust, and unsustainable under law.

2.1.2 Despite filing comprehensive and bona fide documentary evidence-which includes shipping bills, air way bills, export invoices, packing lists, air freight receipts, custodial expense receipts, scanned images, CCTV footage, cargo-entry registers, and more the Respondent failed to



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*take these into due consideration. Instead, the adjudication rested solely on incomplete investigation and depositions that were not tested through proper cross-examination or supported by documentary proof. This constitutes a gross miscarriage of justice and a fundamental breach of principles laid down in **Commissioner of Customs v. Phoenix International Ltd., 2007 (217 ELT 513) SC**, which requires that every charge of misdeclaration or fraud must stand on cogent, unimpeachable evidence rather than baseless surmises. The absence of a speaking order addressing each defense point and material evidence deprives the appellant of a fair adjudication.*

*2.1.3 The Respondent ignored authenticated custodial records provided by the operator AISATS Bengaluru, including expert testimonies affirming that the consignment under shipping bill no. 2190821 dated 03.06.2021 consisted of lawful industrial pump spares, not prohibited red sanders as alleged. These records included scanned images of consignments, security scanning registers, physical examination reports, and other official documentation demonstrating adherence to customs protocols. Reliance placed instead on the testimonies of unauthorized witnesses—who themselves retracted or contradicted their statements betrays a flawed investigative process. In support, the appellant cites **MS Exim Services u. Commissioner of Customs, Ludhiana, 2021 SCC OnLine CESTAT 14**, reinforcing that penalties cannot be imposed where bona fide exercised due diligence and verifiable documentation exist, negating allegations of false declaration.*

*2.1.4 The Respondent overlooked the multi-layered and structured customs examination and assessment process mandated by the RMS/ICES system, including oversight by authorized officials like export assessment Superintendents and shed inspectors. The goods were scrutinized thoroughly via physical examination and electronic verification before the issuance of the Let Export Order (LEO). No evidence contradicts the documented procedures, and no basis is shown for allegations of misdeclaration. This is in line with the principle established in **UOI v. Ganesh Das Bhoj Raj, 2000 (122 ELT 522) (SC)**, which affirms the requirement of corroborated evidence directly linking the accused to fraud or misdeclaration. The*



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Respondent's failure to appreciate or challenge this procedural adherence points to an arbitrary and legally unsupportable conclusion.

*2.1.5 The depositions relied upon by the Respondent emanate from persons lacking statutory authorization or contractual agency to represent either exporters or customs brokers. This includes individuals associated with unrelated entities or merely private individuals with no lawful role in customs documentation or cargo handling. Public Notice No. 14/2011 Customs ACC and the ruling in **K Sugumar v. Commissioner of Customs, Madras-HC (2021)**, clearly establish that unauthorized presence and actions in the customs examination area are impermissible, negating the evidential value of their statements. The Respondent's acceptance and use of such inadmissible evidence violate binding regulations, further undermining the fairness and legality of the penalty proceedings against the appellant.*

*2.1.6 The material irregularities and defects permeate the investigation, particularly regarding mahazar proceedings, which were conducted without the presence of required statutory witnesses such as the exporter, customs house agent, vehicle driver, or the customs shed officer. Moreover, the mahazar fails to record identifying marks and seals on the alleged seized goods, resulting in a vital gap in the evidentiary chain. The absence of concrete documentation associating seized goods with the appellant's actions contravenes principles upheld in **Sea Queen Shipping Services Pvt. Ltd. v. Commissioner of Customs, Chennai, 2019 (366 ELT 1011) (CESTAT)**. This infirmity alone undermines the legitimacy of penalty imposition and demonstrates the lack of procedural fairness owed to the appellant.**

*2.1.7 The appellant contends that the Respondent erroneously imposed penalty without establishing mens rea-the necessary criminal intent or willful knowledge under Section 114AA of the Customs Act. The appellant acted strictly within the framework of RMS protocols, and there is no material evidence pointing to knowingly issuing false or incorrect documentation while granting the LEO for shipping bill no. 2190821. The importance of mens rea as a condition precedent to penalty imposition is emphasized in **Hera Shipping Solutions Pvt. Ltd. v. Commissioner of Customs,***



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Chennai, 2022-VIL-603-CESTAT-MAD, which holds that the intentional element must be proven beyond reasonable doubt. The Respondent's failure to establish this essential element renders the penalty order unsustainable.

*2.1.8 The mistrust or resemblance of modus operandi with other shipments cannot replace the need for legally admissible, compelling evidence. As established in **UOI v. Raj Grow Impex, 2014 (306 ELT 433) SC. and Collector of Cus Sanjay Chandiram, 1995 (77 ELT 162) SC**, suspicion or inferred misconduct from unrelated cases cannot substantiate penal consequences. The Respondent's assumption that the shipment was red sanders based solely on the modus operandi found in an unrelated consignment intercepted later lacks any evidentiary foundation, rendering the penalty imposition speculative and unlawful.*

*2.1.9 The penalties must be directly attributable to proven illegal acts concerning specific goods and transactions involving the appellant. Misattribution or pooling of unrelated consignments to implicate the appellant violates the principle of individual responsibility grounded in **UOI v. Ganesh Das Bhoj Raj (2000), Commissioner of Customs v. Phonics International Ltd. (CESTAT), and Commissioner of Customs v. Sanjay Chandiram (2000)**. The Respondent's failure to segregate facts and hold the appellant accountable exclusively for actual conduct and consignments breaches fair trial norms and the customs legal framework.*

*2.1.10 Section 155 of the Customs Act provides protection to officers acting in good faith and within their official duties, shielding them from punitive action absent malafide conduct. The appellant discharged functionary duties as assigned, following due RMS procedures diligently and with no mal-intent. Case law including *Sea Queen Shipping Services Pvt. Ltd. (supra)* and **Pushpak Lakhani v. Principal Commissioner of Customs, 2022-VIL-528-CESTAT-AHM** underscores that penalties under Section 114AA cannot be levied except where intent to evade or defraud is proven. The appellant also stresses the fundamental right to cross-examine witnesses relied upon by the department, a critical principle of natural justice violated here, undermining the entire penalty process.*



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2.2 Appellant No.2: M/s UDL Logistics Pvt Ltd and

2.2.1 The Show Cause Notice is not maintainable both in law and also on facts, as there was no specific allegations against the Noticee No. 9/Appellant and whatever made, were solely based on guesses and surmises. The SCN alleging lack of due diligence and failure to verify the documents, is vague, sweepy and arbitrary as no specific allegations were made as against the Noticee No.9/Appellant, more so when penal measures were proposed under multiple provisions of law The impugned Order was passed levying penalty against each of them and/thús, both a nullity in law.

2.2.2 The SCN was also issued in respect of the improper exports to as many as 15 persons including 3 Customs officers. As against the Noticee No.9/Appellant, the said SCN merely alleged that the appellant failed to fulfill Regulations 10(e) and 10(n) of CBLR, 2018. The SCN has not alleged any malafide motive or act as against the appellant which are punishable or liable in any manner under the provisions the Customs Act.

2.2.3 A bare perusal of the Show Cause Notice and the impugned Order would reveal that vague and false allegations are made against the Noticee No.9 by alluding to two different persons KV Dushyanth and UDL Logistics Pvt Ltd- by mentioning and referring them as one person Noticee No.9. As such, no such Noticee No.9 exists or could ever exist. The issue of such a Show Cause Notice is arbitrary and unlawful. Even assuming the issuing of SCN to Noticee No.9 is valid for any reason whatsoever and without admitting to the same, the levy of penalty on each of them separately is arbitrary, without application of mind and unlawful.

2.2.4 The SCN dated 24-01-2022 was issued in respect of the exports for which the shipping bills were filed by the Noticee No.9/Appellant on 21-6-2021 and 3-7-2021, which were also duly cleared by the Customs Authorities, without any adverse observation or objection in respect of any role, act or conduct of the Noticee No.9/Appellant. Thus,



the SCN dt 24-01-2022 issued to the Noticee No.9/Appellant was belated and barred by limitation.

2.2.5 The SCN was said to have been issued on the basis of the Investigation conducted by the DRI and it was not stated in the SCN as to any conclusion thereof. From a bare perusal of the SCN or the impugned order, it was also clear that the departmental authorities have examined nor conducted any enquiry on any document or person. The Noticee No.9/Appellant was also denied opportunity of cross examination of the relevant persons. Thus, the entire proceedings as against the Noticee No.9/Appellant, including the issue of SCN and the impugned order were all in violation of principles of natural justice and also contrary to law and for this reason alone, both the SCN and the impugned Order deserve to be set aside as being illegal and arbitrary.

2.2.6 The said SCN was also issued after detailed investigation including the collusion and unlawful conduct of the Customs Officials. It is further submitted that there was no allegation on the appellant as to confiscation of export goods or contravention of any specific provision under the Customs Act, in respect of which the appellant filed Shipping Bills. The above clearly show that the Noticee No.9/Appellant was bonafide in respect of their role and activities in the exports done through them.

2.2.7 A bare reading of the Regulation 10(e) CBLR, 2018 provision show that the authorization from the exporter was not made mandatory. In any case, the KYC documents were duly authenticated and attested by the exporter which were bonafidely relied on by the Noticee No.9/Appellant. The KYC documents were the requirement and the same were duly provided along with the cargo. It is also stated in the impugned Order in para 79.7... .. "Out of the 03 CBs only, M/s UDL Logistics Private Limited (Noticee No.8) is seen to have collected KYC Documents and verified the same to some extent from information available in public domain...." Being so, the invocation of Reg 10(e) is not legal and not proper.

2.2.8 Also, a bare reading of the Regulation 10(n) CBLR, 2018 provision shows that the IEC and GSTIN and



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the functioning of the exporter at the declared address were to be verified as to the correctness. All KYC documents including the IEC and GSTIN were duly authenticated and attested by the exporter which were bonafidely relied on by the Noticee No.9/Appellant the correctness of which were not denied nor disputed in any manner. It was also stated that the KYC documents were also verified in a manner known to law. Being so, the invocation of Reg 10(n) is not legal and not proper.

2.2.9 The impugned Order has not made any finding as against the Noticee No.9/Appellant nor dealt with Sec 114AA with respect to any act or any document or statement pertaining to Noticee No.9/appellant. Hence, the section is not applicable.

2.2.10 A bare perusal of the SCN dt 24-01-2022 show that merely alleging lack of diligence on the Noticee No.8/Appellant in respect of CBLR, 2018, the penalty is sought to be leviable under Sections 114 and 114AA. A perusal of the impugned Order reveal that while holding correctly that Section 114(i) penalty is not legable however, without discussing and without giving any finding against the Noticee No.9/Appellant in any specific manner in terms of Section 114AA, the impugned Order levied penalty under Section 114AA and the same is not legal and not proper.

2.2.11 The Noticee No.9/Appellant was bonafide throughout and the Noticee No.9/Appellant promptly filed its objections and also participated in the proceedings. There was no allegation nor any findings in respect of any undue financial gain to the Noticee No.9/Appellant or knowledge or intention and thus both the SCN and the impugned Order are not sustainable both in law and on facts as against the Noticee No.9/Appellant.

2.2.12 A perusal of the impugned Order and the proceedings thereof would reveal that the alleged improper exports have been made with active collusion, cooperation and collaboration between the exporters and the departmental officers. No act or conduct has been alleged against or can be said to be done knowingly or with the knowledge of any such illegal act by the Noticee No.9/Appellant. The Noticee No.9/Appellant have only filed



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the Shipping Bills and performed the consequential activities thereof, all in accordance with law and their role and conduct is bonafide and lawful both in intent and content. In the above facts and circumstances, the impugned proceedings and the Order thereof, as against the Noticee No.9/Appellant are both unlawful, unjust and harsh in all, any and every manner both in law and on facts.

2.2.13 In view of the above submissions and also due to the fact that the obligations of the Noticee No.8/Appellant as a Customs Broker is having been duly fulfilled, the impugned order is liable to be set aside in every and all manner.

2.3 Appellant No.3: Shri K V Dushyanth, Director, M/s UDL Logistics Pvt Ltd

2.3.1 The Appellant No. 3 also submitted identical grounds of Appellant No. 2: M/s UDL Logistics Pvt Ltd, and therefore not repeated again. On the basis of the submissions, the appellant requested to set aside the impugned order.

2.4 Appellant No. 4: Shri C. Venkatesh, Superintendent of Customs and GST (Retd.)

*2.4.1 The findings against him regarding Shipping Bill No. 3378541 dated 26.07.2021 are without basis, arbitrary, and imposed despite bona fide facts and absence of material evidence. The penalties under Section 114(i) and Section 114AA of the Customs Act, 1962, have been imposed without proper examination of the appellant's defenses or the evidences on record. The Risk Management System (RMS) is a system-driven process configured to prevent arbitrary actions. The appellant acted on the authority of the Duty Roster and at the statutory workplace, following established RMS procedures. Any issuance of Let Export Order (LEO) was post-inspection by a pre-functionary officer, whose report uploaded in the system was devoid of adverse remarks. The appellant refers to CBIC Standing Order No. 22/2015 and CBIC Circular No. 23/2013 that mandate strict adherence to RMS instructions and disallow personal discretion beyond these instructions. The appellant relies on Supreme Court rulings, notably **M.V. Bijlani vs Union of***



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India, 2006 (5) SCC 88, and State of Punjab vs V.K. Khanna, 2001 (2) SCC 330, affirming that adherence to prescribed procedures precludes misconduct allegations. The impugned order fails to identify specific deviations by the appellant in issuing the LEO, rendering its inferences arbitrary and unsustainable.

2.4.2 The credibility of the Mahazar dated 29.07.2021 and related Supratnama submissions, relied upon by the Respondent, is deeply questionable. The witnesses to the Mahazar, as revealed during cross-examination, admitted they were not present during the proceedings and did not witness the alleged seized goods. The investigation's reliance on these unreliable testimonies lacking authorization is improper. Notably, the Mahazar was carried out without critical stakeholders present-exporter, authorized customs broker, vehicle driver, and the appellant who issued the LEO. The Mahazar itself fails to reference relevant custodian records correlating the goods with the implicated Shipping Bill No. 3378541. The examination by the Range Forest Officer was conducted without correlating goods with the shipping documents, further weakening evidentiary value. Additionally, seizure under Section 110 of the Customs Act was never effected in the legal sense as goods were handed directly to the custodian's representative. Various annexures, including invoices and E-way bills, have not been legally seized and are inadmissible. The Respondent has not addressed these critical defenses or passed speaking orders on the Mahazar's credibility, rendering reliance on these proceedings unlawful and unsupportable.

2.4.3 The testimonies of witnesses relied upon in the Show Cause Notice (SGN) lack credibility and legal basis. For instance, Sri Sridharan, partner of Ms. Sai 18 Lakshmi Logistics (customs broker for the shipping bill), did not attest presence at the Mahazar proceedings, negating the reliability of statements implicating the appellant. The SCN evidence ignores the absence of statements from authorized representatives of the exporter, Ms. Teac Engineers UT2, who have explicitly disavowed involvement or misuse of their credentials. Cross-examination of Mr. Rajat Kumar Mittal of Ms. Teac Engineers affirmed the misuse of IEC by unknown entities, further distancing the appellant from wrongdoing. The Respondent's impugned order selectively disregards



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these defenses. Depositions of Sri Suresh and Sri Satish Kumar, key witnesses, were recorded under pressure, contradicted by Public Notice No. 14/2011, which restricts unauthorized individuals inside customs examination areas. Employees of unrelated customs brokers had no locus standi over the shipping bills concerned. Despite retractions during inquiry and parallel conduct proceedings, the Respondent ignored cross-examination revelations and relied on the initial, uncorroborated allegations against the appellant. This biased approach vitiates the proceedings.

2.4.4 The Respondent erred in concluding the appellant's culpability based on conflicted and incomplete evidentiary records regarding financial transactions and documentary trails. Para 81.8 of the impugned order paradoxically claims financial transactions are not core to adjudication yet insinuates that bank statements imply guilt. In reality, financial transactions cited predate the issuance of the impugned Shipping Bill No. 3378541 and bear no nexus. The apparent selective application of facts violates principles of neutrality and fairness. The Respondent also failed to consider favorable evidence indicating that transactions were unrelated personal loans, as admitted by key witnesses. The lack of relevant invoicing, shipment registration, or transport documentation further weakens allegations. The appellant also challenges procedural missteps in investigation such as lack of contemporaneous export/import activity, failure to disclose material relied upon, and ignoring exculpatory testimonies. These factors cumulatively negate the foundation for penalty imposition.

*2.4.5 The appellant contends that denial of natural justice severely prejudiced the defense, specifically regarding the refusal to allow cross-examination of investigating officers and witnesses whose testimonies underpin the SCN. The cross-examination right is vital, especially given the investigation's procedural gaps, contradictory material, and incomplete records. The Respondent acknowledged multiple defense submissions but unjustifiably ignored revelations from parallel inquiries where witnesses turned hostile, and prior depositions were retracted. The exclusion of these cross-examination outcomes contravenes judgments such as **Andaman Timber Industries vs CCE Kolkata fl. 2015 (324 ELT 641)***



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SC, underscoring the necessity of testing witness credibility. The appellant also highlights concealment of statements from equally positioned officers who were similarly situated but discharged, reflecting inconsistent application of justice. Repeated failure to produce legible, certified Relied Upon Documents impaired preparation of defense. The oversight points to a manifest bias and miscarriage of justice in sustaining penalties without proper evidential scrutiny.

2.4.6 Significant irregularities taint the investigation process and evidentiary material. The Mahazar was conducted in absence of key parties, with no linkage established between seized goods and the appellant's shipping bill. The Range Forest Officer's inability to correlate goods to export documents and the absence of seizure under Section 110 of the Customs Act by the seizing officer further invalidate the evidence chain. Unauthorized handling of shipping documents and goods is a material defect, contravening Public Notice No. 14/2011 and the Handling of Cargo in Customs Areas Regulations, 2009. The Respondent's confiscation order lacks clarity about possession of goods and wrongly clubs distinct consignments, introducing confusion in valuation and penal calculations. Email correspondences highlighting transport delays introduce factual contradictions challenging the SCN narrative. These procedural and substantive lapses cumulatively undermine the Respondent's findings and are legally unsustainable.

2.4.7 The issuance of the Let Export Order in respect of Shipping Bill No. 3378541 was fully compliant with RMS and procedural mandates. The appellant followed duty roster assignments and acted based on standard processing flow after inspection with no adverse remarks. Precedents like *M.V. Bijlani (supra)* and *State of Punjab vs V.K. Khanna (supra)* establish that compliance with prescribed procedures precludes allegations of misconduct. The impugned order omits to specify any deviation or illegal act by the appellant, suggesting opportunistic targeting. Investigation findings clearing the appellant with respect to six of seven shipping bills-bearing identical procedural and documentary patterns-indicate selective enforcement. The appellant submits that the absence of any derogatory material on the focal shipping



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bill, despite consistent application of RMS safeguards, exonerates him.

2.4.8 The absence of mens rea is critical, as penalties under Section 114(i) and Section 114AA demand deliberate knowledge or intention. The appellant's role was limited to processing within an automated RMS environment, lacking discretion to override system decisions. The appellant's issuance of LEO was subsequent to inspection findings by an independent officer, Sri Suraj Kumar, who did not find falsehood in documents or goods presented. The appellant observes that no specific investigation targeted the shipping bill at issue beyond swept-in association with parallel consignments without corroboration. The impugned order's conclusion of abetment is inconsistent with exoneration on similarly situated shipping bills, revealing arbitrariness. The appellant's defense includes testimony from various stakeholders denying knowledge or complicity, which the Respondent failed to address adequately. This absence of mens rea warrants dismissal of penalty charges.

2.4.9 The valuation and assessment for penalty imposition are flawed, arising from mixing consignments under two distinct shipping bills. The joint grading dated 21.09.2021 obscures individual linkage to the appellant's shipping bill, as confirmed by the Range Forest Officer's admitted inability to correlate goods with relevant documents. No speaking order explains reliance on such amalgamated valuations. The appellant points to inconsistent application of customs valuation rules, lacking meaningful opportunity for inspection of the goods or cross-examination of valuation witnesses. This failure to attribute value on a shipping bill basis undermines the statutory framework for penalty and confiscation under the Customs Act. The appellant reiterates that documents and procedures followed in clearance matched those in other cleared bills, further buttressing a presumption of bona fide action.

2.4.10 The protection under Section 155 of the Customs Act shields officers acting in good faith from punitive action absent malafide or improper motive. The appellant discharged official duties diligently and similarly situated officers received immunity without penalty. Selectively directing penalty only at the appellant, without



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*distinction in facts or standards, embodies bias. The Appellant draws on decisions including **CCE v. M.I. Khan, 2000 (120 ELT 542)** Tribunal, and analogous authorities recognizing the statutory protection for officers while performing authorized functions. The impugned order sustaining penalty against the appellant while exonerating others reflects an administrative agenda rather than equitable adjudication. Furthermore, parallel disciplinary proceedings overlap with adjudicatory findings, rendering the continuance of penalty/proceedings oppressive and legally questionable. The appellant thus prays for discharge and setting aside of the penalty order in light of these protections.*

2.5 Department Appeal No. 504/2025:

*2.5.1 The LAA has in his Order-in-Original discussed and found that the subject goods ie. Red Sanders Wood (*Pterocarpus Santalinus*) was prohibited for export. The LAA also held that two consignments intercepted (Shipping Bill Nos. 3378541 and 3378546 both dated 26.07.2021) and five consignments already exported (Shipping Bill Nos. 2190821 dated 03.06.2021, 2577229 & 2569607 both dated 21.06.2021, 2878013 dated 03.07.2021 and 3158069 dated 15.07.2021) were Red Sanders. The LAA held that all these seven consignments were liable for confiscation under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962.*

2.5.2 Issue of penalty under Section 114 on Noticee No.9 ie. M/s UDL Logistics Pvt. Ltd. and its Managing Director Shri KV Dushyanth:-

The LAA has discussed the role of Noticee No. 9 ie. M/s UDL Logistics Pvt. Ltd. and its Managing Director Shri K V Dushyanth, who have contravened provisions of Regulation 10 of the Customs Brokers Licensing Regulations, 2018. The LAA has held that Noticee No. 9-

i. failed to act prudently and was manipulated by Shri Satish Kumar T and Shri Munikrishna C for performance of their part in unauthorised processing of export documents;



ii. also failed to (1) obtain due authorization from the exporter and (2) ascertain correctness of information declared under 03 shipping bills handled by them;

iii. aided to the conspiracy and resulted in illegal exports made vide Shipping Bill Nos. 2577229 and 2569607 both dated 21.06.2021 and Shipping Bill No. 2878013 dated 03.07.2021;

iv. was found liable to penal actions in terms of Section 114AA of the Customs Act, 1962 and imposed a penalty on both Shri K. V. Dushyanth, Managing Director and M/s UDL Logistics Private Limited, both. The Adjudicating Authority imposed penalty of Rs. 61,05,900/- each in terms of Section 114AA of the Customs Act, 1962.

However, the LAA did not impose penalty under Section 114 by cite that the provisions of Section 114 is not applicable on exported goods. It is submitted that the LAA has erred in the interpretation of the Section 114. Section 114 is applicable on exported goods as well.

2.5.3 Issue of penalty under Section 114 on Noticee No. 13 Ananthapadmanabha Rao K, Superintendent and Noticee no. 14 Shri Ravinder Pawar, the then Inspector:-

The LAA held:-

i. examination of Shipping Bill No. 2190821 dated 03-06-2021 was carried out by Shri Ravinder Pawar, the then Inspector;

ii. let export order of Shipping Bill No. 2190821 dated 03-06-2021 was granted by Shri Ananthapadmanabha Rao K;

iii. Shri Ravinder Pawar had regular unofficial interactions with Shri Najeeb Zainudeen (Noticee No.4) and Shri Satish Kumar T (Noticee No.7), the preparators of the illegal export / attempted improper export and undue favours / financial transactions between them cast serious concern regarding their active involvement in said offence;



iv. Shri Ananthapadmanabha Rao K was found having financial dealings with Shri Ravinder Pawar,

v. Shri Ravinder Pawar and Shri Ananthapadmanabha Rao K were involved in illegal export of red sanders wood made vide Shipping Bill No. 2190821 dated 03-06-2021;

vi. imposed penalty under Section 114AA of Rs. 8,81,461/- on the both of them.

However, the LAA did not impose penalty under Section 114 by citing that the provisions of Section 114 is not applicable on exported goods. The LAA has erred in the interpretation of the Section 114, Section 114 is applicable on exported goods as well.

2.5.4 While the LAA has correctly recorded the role played and involvement of

i. Noticee No. 9 i.e. M/S UDL Logistics Pvt. Ltd. and its Managing Director Shri KV Dushyanth;

ii. Noticee No. 13, 1.c. Shri Anantha Padmanabha Rao K, the then Superintendent; and

iii. Noticee No. 14 ie. Shri Ravinder Pawar, the then Inspector

In the chain of events facilitating the export of prohibited goods, the LAA has erred in the interpretation of Section 114. The provisions of Section 114 states that any person who, in relation to any goods, does or omits to do any act which would render such goods liable to confiscation under Section 113 shall be liable to a penalty. The LAA has found all the seven consignments were liable for confiscation under Section 113. Further, as stated above, roles of all the three above mentioned noticees have been found by the LAA. Further, penalty have been imposed on these three noticees for their acts in the illegal export under Section 114AA. The LAA should have imposed penalty under Section 114(i) on these three, but, has failed to do so in the Order in Original. Hence, for their acts which made goods liable for confiscation under Section 113, these three



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noticees are also penalizable under Section 114(i) as proposed in the Show Cause Notice.

2.6 Cross Objections by Respondent No. 1: M/s UDL Logistics and it's Managing Director Shri. K.V. Dushyanth

2.6.1 The above Respondents have also filed appeals against the Order-in-Original No.3/2025-26 dated 15-04-2025 and the same were taken on record as Appeal Nos.423 & 424/2025Cus (B-Air) as communicated vide Lr. No.475/2025 dt 25-7-2025 in A. No.423/2025 Cus (B- Air) and Lr. No.474/2025 dt 25-7-2025 in A. No.424/2025 Cus (B-Air).

2.6.2 The averments and grounds as pleaded in the above appeals filed by the above respondents are reiterated and also warranted to be considered as Reply to the Dept Appeals herein. Without Prejudice, the above Respondents may be permitted to plead additional grounds and averments as may be warranted.

2.6.3 In view of the above, the respondent requested to dismiss the above appeals filed by the Department as not maintainable or alternatively may be heard and decided together along with the above said appeals filed by these respondents and thus render justice.

2.7 Cross Objections by Respondent No. 2: Shri. K. Ananthpadmanabha Rao

2.7.1 The respondent contends that the entire appeal is not maintainable on facts and law, suffering from incurable defects and procedural deficiencies in the original investigation, adjudication, and review. The impugned Show Cause Notice (BGR) dated 24-01-2022 alleges fraudulent export related to seven shipping blis, including SB No. 2190821 dated 03.06.2021 for which the respondent issued the Let Export Order (LEO). However, the goods under this SB were thoroughly scrutinized, registered, and cleared following prescribed customs procedures, with no credible nexus between the respondent and the alleged violations. Distinct exporters Ms. Gurmehar Impex (SB 2190821) and Ms. TEAC Engineers (other SBs) were wrongly clubbed, though they have separate IECS, GST registrations, and



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premises. Critical documents such as shipping bills, Air Way Bills, invoices, e-way bills, custodial and transporter records are missing from investigation files, raising serious doubt about the correctness of allegations. The respondent relies on principles of natural justice as enshrined in the Customs Act and case law emphasizing that penalties cannot arise from assumptions or surmise but require cogent evidence. Non-supply of vital records obstructed defense, causing miscarriage of justice and rendering the entire appeal filed by the department as an attempt to cover investigation deficiencies.

2.7.2 The investigation and adjudication authorities failed to prove seizure of goods under Section 110 of the Customs Act, which is a sine qua non for confiscation or penalty. The allegedly seized goods were instead handed over to the custodian without formal seizure, as evidenced by the Mahazar (RUD-1) conducted in the absence of legitimate witnesses representing the exporter, customs broker or appellant. The Mahazar thus lacks documentary strength and credibility. Further, the adjudicating authority ignored that SB No. 3378546, which figures prominently in the allegations, was never registered or cleared for export, absolving the appellant entirely of connection in this regard. The appellant highlights this fundamental investigational lacuna and challenges the review order for disregarding these critical points. The respondent also objects to the arbitrary blending of consignments under separate SBs to derive average valuations for penalty computation, inconsistent with customs valuation principles laid down by courts. The SCN is time-barred, served well beyond the permissible six-month period after investigation, undermining its validity. These procedural anomalies entitle dismissal of the appeal and set aside of all adverse orders.

2.7.3 The that depositions relied upon in the SCN, sourced from unauthorized personnel including key witnesses like Satish, Najeeb, Suresh, and Munikrishna, were recorded under coercion and later disowned in cross-examination. The appellant further refers to Public Notice No. 14/2011, which restricts entry and agency inside customs examination sheds, ruling out the legitimacy of these testimonies. The adjudicating authority refused to allow the appellant the fundamental right of cross-



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examination on these witnesses, causing a serious breach of natural justice. The appellant emphasizes that there is no documentary or testimonial evidence linking the appellant or his actions to any fraudulent export or misdeclaration. Specifically, there was no investigation of the alleged exporter Ms. Gurmehar Impex or its authorized Customs Broker M/s. Concorde Zoom. In six of seven SBs, he was exonerated from charges, signalling selective and unjustified targeting in the remaining case. The overall investigation and adjudication manifest bias and lack transparency, resulting in arbitrary penalties without sustainable proof.

2.7.4 The issuance of the Let Export Order (LEO) was strictly compliant with the procedural framework under the RMS during the assigned duty hours. The appellant acted on authenticated reports of pre-functionary officers, Sri Lakshmi Narayan (assessment) and Sri Suraj Kumar (examination), both of whom recorded no adversarial remarks or suspicion in documents or consignments relating to SB 2190821 dated 03.06.2021. The respondent's professed role was limited to issuing LEO based on system-generated scrutiny and reports. The investigation's failure to engage these officers or verify the completeness of their assessments deprives the penalty proceedings of credibility. Multiple orders and notices from the CBIC mandate that where procedures with RMS are followed scrupulously, penalties cannot be justified. The appellant prays that, in absence of proving any willful or intentional neglect or manipulation, the penalties under Sections 114(i) and 114AA must be quashed in keeping with legal precedents.

2.7.5 The investigation failed to examine critical stakeholders in the export chain, including the custodian AISATS, the air carrier, the customs brokers, and the alleged exporter, Ms. Gurmehar Impex. All consignments were subjected to scanning and digital entry logging at the Air Cargo Complex, with images and scanning records maintained but withheld from the appellant and the investigation report submitted to the adjudicating authority. This selective use and concealment of evidence violates principles of fairness and transparency essential in adjudicatory processes. The appellant has consistently requested access to these records to establish the genuineness and correctness of exports, but such requests



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were ignored. Further, the appellant stresses that the investigation *dehberat* amalgamated consignments of different importers/exporters and brokers in the hope of attributing guilt without proper basis. The investigation's approach violates statutory mandates and case laws, including those emphasizing the requirement of specific and attributable evidence for penalty imposition.

2.7.6 There exists no credible documentary or oral evidence tying the appellant to any fraudulent activity or misdeclaration. No bank statements, transport invoices, invoices from exporters, or equivalent material has been tendered as evidence. The allegations rely primarily on a presumed *modus operandi* drawn from unrelated consignments and coercive depositions from unauthorized third parties. Several documented procedural protections, including Circular No. 30/2020 (Paperless Customs) have been ignored to attribute wrongdoing to the appellant. The respondent points to cross-examination disclosures where many witnesses recanted earlier statements or admitted to making coercive claims. The adjudicating authority's silence on these facts and failure to pass speaking orders on crucial defenses undermines the legality of the entire penalty order and review.

2.7.7. The principles of natural justice were violated due to denial of the right to cross-examine investigating officers and witnesses whose statements form the SCN basis. The respondent's right to mount an effective defense was severely curtailed by investigators' failure to produce relevant documents and witnesses for testing in cross-examination. Key statements were recorded under pressure and without confrontation or corroboration, making them inadmissible under law. Without the possibility of cross-examination, the adjudicatory process was tilted, prejudicing the appellant unfairly. The appellant cites precedents emphasizing the necessity of cross-examination to ensure reliability and fairness in quasi-judicial proceedings like customs adjudications. The failure to consider these established principles calls for setting aside the impugned penalty.

2.7.8. The scope of investigation was restricted and incomplete, omitting inquiry into critical players such as the



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exporter, customs broker, custodian, transporter, and air carrier for SB 2190821. No records have been produced to establish what credentials were used to file the shipping bill, who physically filed it, or responsibility for any alleged irregularities. Similarly, records indicate the RMS and EDI systems were properly employed with no discrepancy in digital logs or registered access parameters. The DHS duty roster corroborates that the appellant acted during assigned export facilitation duty only in line with policy, and personal or illegitimate intervention occurred. The incomplete investigation results in deficiency of proof required for penalty imposition and invalidates the proceedings.

2.7.9. The valuation and penalty computation based on alleged confiscated goods are legally unsustainable due to absence of seizure under Section 110 of the Customs Act, 1962, and flawed investigation blending consignments from different sources. No speaking order accompanies the assumptions of auction-related or market value offered in the impugned order. Legal precedents such as UOI v. Ganesh Das Bhojraj (2000) 9 SCC 133 and Commissioner of Customs v. Phoenix International Ltd have mandated that valuation for penalty must be linked to the specific goods involved and the responsible parties. The arbitrary reliance on unconnected consignments and generic valuations violates these guiding principles. The appellant asserts the goods under SB 2190821 cleared properly with no adverse findings, warranting dismissal of penalty demands.

2.7.10 In the absence of credible and verifiable evidence implicating the respondent in misdeclaration or fraudulent export, the penalty order based on a presumption of guilt violates settled legal standards. The respondent's evidence, including photos of scanned goods, duty rosters, RMS logs, and absence of adverse remarks at examination, remains unchallenged. The appellant prays that the appeal filed by the department to sustain penalty be rejected for want of maintainability, lack of merits, and failure of investigation and adjudication to meet the requirements of law and principles of natural justice. The appellant further requests an opportunity for oral hearing and for considering additional submissions on the record, emphasizing the considerable mental and professional prejudice suffered over four years and nearing retirement from service.



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2.8 Respondent No. 3: Shri Ravindra Pawar has not filed any cross objections.

3. Personal Hearing (PH):

3.1 Shri K.Ananthapadmanabha Rao, Appellant No. 1 who is also Respondent No. 2 in Department Appeal, appeared for the personal hearing held on 12.11.2025. He reiterated the written submissions with grounds of appeal made in the Appeal Memorandum and Cross Objections and the same are taken on record. He requested to submit a copy of Enquiry Officers Report by the end of the day and the same also was taken on record.

3.2 Shri T. Sundarnathan, the authorised representative of the appellant No. 2 & 3 who are also Respondent No. 1 in Department Appeal, appeared for the personal hearing held on 23.12.2025. The AR reiterated the written submissions with grounds of appeal made in the Appeal Memorandum and the same are taken on record. He has stated that additional submissions will be made by 29.12.2025 and the same was taken on record.

3.3 Shri C Venkatesh, Appellant No. 4 appeared for the personal hearing held on 12.11.2025. He reiterated the written submissions with grounds of appeal made in the Appeal Memorandum and also submitted additional submissions during PH, the same are taken on record.

3.4.1 Shri Srinivasa Prasad, the authorised representative (AR) of Shri Ravindra Pawar, Respondent No. 3 in Department Appeal, appeared for personal hearing on 23.12.2025. Shri Ravindra Pawar through the AR made the submissions that the O10 No. 03/2025-26 dated 15.04.2025 passed by the LAA is not served on him despite sending e-mail to them to serve the copy of the same, that he has not been served with the copy of O10 even in the first appellate stage and only the grounds of appeal was supplied which severely hampered his ability to properly submit counter grounds. The respondent further submitted that he sought the cross examination of all the persons whose statements are relied upon in the SCN and also Mahazar witness, but



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the same was not accorded and OIO was passed violating the principles of natural justice.

3.4.2 The respondent further submitted that he has attended only one consignment out of many consignments mentioned in the SCN, under which spares of pumps was cleared and not red sanders, the scanning image clearly indicates that the goods cleared were of pumps and not red sanders, that the register maintained for scanning also indicates that the same SB was scanned at the time shown in the image, that Shri Manoj Kumar, Senior Duty Manager, Air India Sats admitted during his examination and cross examination before inquiry officer that the goods cleared were pumps based on scanning image. Further, Shri Paveen Kumar Kanigval, SIO, DRI in his deposition before the inquiry officer admitted that the goods exported under SB was in fact industrial pump; that there is no evidence of any kind of payment to him by any of the person accused in the case. Shri Satish Kumar T admitted before the inquiry officer that he dropped at the railwa station for a consideration, that even if he has dropped the spondent free of cost, it does not depict that he was involved in the smuggling, that he always admitted that he knew Satish Kumar as he was coming to ACC for clearance of goods; that Shri Satish Kumar admitted that the respondent has no relation to smuggling of goods; that there is no communication between the respondent and any of the accused in any form. The respondent further submitted that the DRI failed to conduct investigation at the receiving port to the extent that what material was received and what material was declared, and also failed to establish the procurement of red sanders and money trail for the consignment which the respondent has cleared and it is proved beyond doubt that it is industrial pumps. So the decision of LAA to implicate the respondent and impose penalty is not sustainable.

3.4.3 Further, the respondent submitted that it is proved that the materials exported was industrial pumps as it is evident from the scanning image and the same was admitted by SIO, DRI, the Order of LAA is not sustainable and requested to reject the appeal. The respondent made an alternative prayer to keep the appeal pending as he is intended to file appeal as and when the copy of O10 is served to him through email to koerum291@gmail.com.



4. Discussions and findings:

4.1 I have gone through the appeal memorandum, facts of the case, written submissions of the appellants and respondents, submissions made by the appellants/respondents/ARs during PH in respect of the appeals filed by the appellants and the Department.

4.2.1 The issue in brief is that, based on specific intelligence, the Directorate of Revenue Intelligence (DRI) intercepted two export consignments at Air Cargo Complex (ACC), Bangalore, booked in the name of M/s TEAC Engineers UT2 under Shipping Bill Nos. 3378541 and 3378546, both dated 26.07.2021. The consignments were declared as "Industrial Ductile Pipes, however, detailed examination revealed concealment of 106 logs of Red Sanders Wood (*Pterocarpus Santalinus*) a species prohibited for export under CITES and the Foreign Trade Policy. The seized quantity weighed 3.293 MT, with an estimated value of Rs. 62.655 lakh, and was taken into custody under Mahazar dated 29.07.2021. Subsequent investigation established that the exporter had earlier fraudulently exported five consignments, also concealing Red Sanders Wood. These consignments, booked under Shipping Bill Nos. 2190521 (dated 03.06.2021) in the name of M/s Gurmehar Impex, No. 2577229 and 2569607 (both dated 21.06.2021), 2878013 (dated 03.07.2021), 3158069 (dated 15.07.2021), in the name of M/s TEAC Engineers UT2, covered a total of 6.821 MT of Red Sanders Wood, valued at approximately Rs. 129.77 lakh, which had already been illicitly exported by mis-declaring them as permissible goods.

4.2.2 The Department's investigation narrated that Shri Najeeb Zainudheen, with the facilitation of Shri Munees Anadakandy, procured quantities of Red Sanders wood. He entrusted the task of mis-declaring the goods, handling Customs formalities, and arranging other incidental facilitation to Shri Satish Kumar T., who is a partner in M/s Maneesh Logistic Services and concurrently employed as Manager in M/s Marsh Shipping Agency. Shri Satish Kumar T., in concert with his co-accused associates, managed to file seven shipping bills by misusing the credentials of two



companies that were in their possession, without obtaining any letter of authorization from the said firms. These shipping bills were further filed through three different Customs House Agents (CHAs). The Lower Adjudicating Authority (LAA), in the impugned order, has confirmed the involvement of multiple stakeholders in the fraudulent activity, including transporters, Customs Brokers, logistics operators, and even departmental officers. The details of the seven shipping bills involved are set out below.

Sl. No.	SB No.	SB Date	Exporter Name	SB filed by CB Name
1	2190821	03.06.2021	Gurmehar Impex	Concorde Zoom
2	2577229	21.06.2021	TEAC Engineers UT2	UDL Logistics
3	2569607	21.06.2021	TEAC Engineers UT2	UDL Logistics
4	2878013	03.07.2021	TEAC Engineers UT2	UDL Logistics
5	3158069	15.07.2021	TEAC Engineers UT2	Sri. Lakshmi Logistics
6	3378541	26.07.2021	TEAC Engineers UT2	Sri. Lakshmi Logistics
8	3378546	26.07.2021	TEAC Engineers UT2	Sri. Lakshmi Logistics

4.2.3. Of the seven SBs under reference, the consignments covered under Sl. Nos. 1 to 5 were successfully exported. The consignments pertaining to Sl. Nos. 6 and 7 were, however, intercepted by the Directorate of Revenue Intelligence (DRI), which triggered subsequent investigation, adjudication proceedings, and culminated in the issuance of the impugned order.

4.3 A total of five appeals have been filed against the impugned order. Of these, four appeals have been preferred by the parties concerned, while one appeal involving three



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respondents, has been filed by the Department. For purposes, of brevity, specificity, and clarity, the role of each party/appellant/respondent, together with the respective grounds of appeal and any cross-objections, is addressed separately in the subsequent sections.

4.4 Appellant No. 1: Shri K Ananthapadmanabha Rao, who is also Respondent No. 2 in Department Appeal (hereinafter in the sub-paras of para 4.4 referred to as 'appellant' / 'respondent')

4.4.1 The appellant was the shed Superintendent who gave Let Export Order (LEO) to one of the SBs involved, ie, SB No. 2190821 dated 03.06.2021. The Department observed that, Shri Ravinder Pawar, the Inspector who examined the said SB asked Shri Satish Kumar T to transfer money to an account maintained with SBI in the name of one Ms. Jayalakshmi Rao. K. On examination of bank statement of Shri Satish Kumar T, there are transactions from his account of amounts Rs. 25,001/-and Rs. 99,999/- to the account of Ms. Jayalakshmi Rao K, who is mother of the appellant. On this basis, the SCN alleged that the appellant abetted in the illicit export of red sanders, and the LAA imposed penalty of Rs. 8,81,461/- under Section 114AA of the Act.

4.4.2 The appellant, as elaborated in paragraph 2.1 above, advanced detailed submissions. The principal contentions are that the LAA, despite the availability of bona fide facts, circumstances, and supporting documents, failed to consider the defence of the appellant in its entirety. The order is silent on several specific defences raised, including the defects and deficiencies in the investigation, and does not qualify as a speaking order with reference to the material and evidence available on record. Instead, the conclusion has been drawn purely on surmises and presumptions. It is further contended that the LAA restricted its findings by relying solely on the deposition of Shri Satish Kumar, who alleged that all consignments covered by the Show Cause Notice comprised red sanders, without any corroborative basis, record, or evidence. The appellant emphasized that multiple layers of checks and scrutiny exist in the export process, from registration of goods up to their loading onto the aircraft, which were disregarded in the adjudication.



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Additionally, while imposing penalty under Section 114AA of the Act, the LAA failed to establish mens rea on the part of the appellant. No findings were drawn to demonstrate that the appellant had knowingly or intentionally engaged in the act of making, signing, or using false or incorrect documentation in relation to the Let Export Order issued for Shipping Bill No. 2190821 dated 03:06.2021. The appellant also highlighted various procedural lapses, including non-supply of relevant records, and placed reliance on several judicial precedents in support of its defence.

4.4.3 The Department has preferred an appeal against this appellant, arraying him along with two others as respondents. The grounds urged by the Department in respect of these three respondents are set out in paragraph 2.5 above. In essence, the LAA has held that all seven consignments were liable to confiscation under Section 113 of the Act. The LAA has also recorded findings regarding the roles played by each of the three noticees and imposed penalties upon them under Section 114AA for their involvement in the attempted illegal export. However, the LAA ought to have additionally imposed penalty under Section 114(i) of the Act upon these noticees, but failed to do so in the O10. Since their acts rendered the goods liable to confiscation under Section 113, the three noticees are equally liable to penalty under Section 114, as was specifically proposed in the Show Cause Notice. The respondent filed cross objections against the Department appeal as detailed in para 2.7 above.

4.4.4 I have carefully examined the role of the appellant/respondent in the present case. The appellant issued the LEO in respect of SB No. 2190821 dated 03.06.2021. The LAA has recorded a finding that the appellant facilitated the illegal export of red sanders through this shipping bill, allegedly for a monetary consideration of Rs.1,25,000/- received through banking transactions in the account of his mother. It is noted that SB No. 2190821 dated 03.06.2021 was selected for open examination. Based on the examination report submitted by the Inspector, the appellant, in his capacity as Shed Officer, issued the LEO. In such circumstances, where there is no specific intelligence or adverse examination report under RMS instructions, the Shed Officer is duty bound to issue the LEO. I do not find



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any allegation of procedural lapse by the LAA against the appellant in this regard. The sole allegation is that the money credited to the appellant's mother's account was towards facilitation of the illegal export, a finding drawn exclusively from the statement of Shri Satish Kumar. On perusal of the statements of the alleged kingpins, Shri Satish Kumar and Shri Najeeb Zainudeen, as reproduced in the impugned order, it is evident that the LAA himself recorded that the appellant had no interaction with any of the alleged perpetrators of the illegal export of red sanders under the said shipping bill. Further, Shri Ravinder Pawar, Inspector wh examined the consignment, categorically denied having shared the bank account details of the appellant's mother with Shri Satish Kumar. No other evidence exists on record to establish that the appellant provided such account details to any of the accused. The goods covered under the said shipping bill were exported and were not available for investigation. The only basis for the LAA's conclusion that the exported items were red sanders, and not the goods declared in the shipping bill, is the statement of Shri Satish Kumar, From the Show Cause Notice and the impugned order, it is clear that the investigation failed to establish, even through overseas enquiry, whether the goods exported were red sanders or otherwise. In the absence of such proof, the pro rata valuation of the goods also cannot be sustained. Accordingly. I find that the imposition of penalty under Section 114AA of the Customs Act, 1962 is not supported by evidence. The LAA has himself recorded that the financial transactions are not the core subject of adjudication and were examined only to indicate a nexus between the appellant and the alleged perpetrators. However, as discussed above, such nexus has not been established. In view of these findings, the facts weigh more in favour of the appellant, entitling him to protection under Section 155 of the Act. Consequently, the Department's appeal seeking imposition of penalty under Section 114 of the Act also does not prima facie arise. Nevertheless, considering the various factual aspects involved, I am of the considered view that the matter requires re-examination by the LAA, who shall pass a reasoned and speaking order in light of the above observations.

4.5 Appellant No. 2 & 3: M/s UDL Logistics Pvt Ltd & Shri K V Dushyanth, Director, M/s UDL Logistics Pvt



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Ltd who are also Respondent No. 1 in Department Appeal (hereinafter in the sub-paras of para 4.5 referred to as 'appellants/ respondents')

4.5.1 *The appellants, being the Customs Broker and its Managing Director, filed three shipping bills in the present case, namely SB No. 2577229 dated 21.06.2021, SB No. 2569607 dated 21.06.2021, and SB No. 2878013 dated 03.07.2021, all in the name of M/s TEAC Engineers UT2. In his statement, Appellant No. 3 admitted that all documents including the invoice-cum-packing list, Air Waybill copy, IEC copy, GSTIN copy, AD code, and LUT copy were provided solely by Shri Satish Kumar T. He further accepted that no letter of authorization had been obtained from M/s TEAC Engineers UT2 for filing the aforesaid shipping bills and conceded violation of the provisions of the Customs Brokers Licensing Regulations BL 2018. On this basis, the SCN alleged that the appellants failed to exercise due diligence in verifying the KYC particulars of the exporter and the correctness of the goods to be exported, as mandated under Regulations 10(c) and 10(n) of the CBLR, 2018 read with Section 146 of the Act. The LAA, after considering the matter, imposed a penalty of Rs. 61,05,900/- each on Appellant No. 1 and Appellant No. 2 under Section 114AA of the Act.*

4.5.2 *The appellants, as elaborated in paragraphs 2.2 and 2.3 above, advanced detailed submissions. Their principal contentions are that the SCN is not maintainable either in law or on facts, as no specific allegations have been made against them and the assertions therein rest solely on conjecture and surmise. It is urged that the SCN, which alleges lack of due diligence and failure to verify documents, is vague, sweeping, and arbitrary, without setting out any concrete charge against the appellants. The appellants further contend that the SCN does not allege any malafide motive or act attributable to them that would render them punishable or liable under the provisions of the Customs Act, 1962. They point out that the shipping bills dated 21.06.2021 and 03.07.2021 were duly filed and cleared by the Customs authorities without any adverse observation or objection regarding their role, conduct, or actions. Consequently, the proceedings initiated are belated and barred by limitation. It is also submitted that there is no contravention warranting*



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invocation of the provisions of the CBLR, 2018. Without discussing or recording any specific finding against the appellants, the impugned order has imposed penalty under Section 114AA of the Act, which, according to them, is neither legal nor proper. The appellants have additionally raised certain technical grounds and emphasized that the shipping bills were filed and all consequential activities performed strictly in accordance with law. Their role and conduct, they assert, were bona fide and lawful both in intent and in content, and no act or omission has been alleged or can be said to have been committed knowingly or with knowledge of any illegality.

4.5.3 The Department has also filed an appeal, arraying these appellants as respondents, as detailed in paragraph 4.4.3 above. In the said appeal, the Department has sought imposition of penalty under Section 114(i) of the Act upon the appellants, who are respondent No. 1 therein. The respondents, however, reiterated the submissions made in their own appeal and prayed for dismissal of the Department's appeal.

4.5.4 I find that the appellants, acting as Customs Broker, filed three Shipping Bills in the present case. All consignments covered under these Shipping Bills were cleared for export, and the goods were not available for subsequent investigation. It is noted that the Shipping Bills were filed on the basis of export documents and KYC papers handed over by Shri Satish Kumar, one of the accused. The failure to verify the genuineness of Shri Satish Kumar and the filing of Shipping Bills without obtaining proper authorization from the exporter constitute acts of negligence and clear violations of the provisions of the CBLR, 2018. I further note that the Hon'ble CESTAT, vide Final Order No. 20036/2024 dated 09.01.2024 in Appeal No. 20295/2023 against OIO No. 5/2023 dated 21.03.2023 of the Commissioner of Customs, BCC, observed that the negligence attributable to the appellant was limited to not verifying the authenticity of the documents and whether the orders had been duly passed by the exporter. The Tribunal held that, since the KYC documents were verified online and the Shipping Bills were filed in good faith, the appellants could not be penalised for the attempted illegal export of prohibited goods. Accordingly, the Hon'ble CESTAT set



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aside the revocation of the Customs Broker licence and forfeiture of the security deposit. However, in view of the failure to verify the genuineness of Shri Satish Kumar, who claimed to be the authorised representative of the exporter, the Tribunal upheld the imposition of penalty under the CBLR, 2018 to the extent of Rs. 50,000/-, Although the SCN alleged that the appellants abetted the illicit export of red sanders by registering the goods and facilitating issuance of LEO for the three Shipping Bills, I find that the LAA could not establish any nexus between the appellants and the perpetrators of the illegal export. Since the goods exported were not available for investigation, and the valuation of such unavailable goods rests only on assumptions, I hold that the penalty imposed on the appellants under Section 114AA of the Act is unduly harsh and requires reconsideration. For this conclusion, reliance is placed on the Hon'ble CESTAT Final Order No. 20036/2024 dated 09.01.2024. In view of the foregoing, I am of the considered opinion that the matter warrants re-examination. The grounds raised in the Department's appeal seeking imposition of penalty under Section 114(i) of the Customs Act, 1962 upon the appellants may also be reviewed during the remand proceedings, in light of the above findings and the binding observations of the Hon'ble CESTAT.

4.6 Appellant No. 4: Shri C. Venkatesh (hereinafter in the sub-paras of para 4.6 referred to as 'appellant')

4.6.1 The appellant, serving as Shed Superintendent, issued the LEO in respect of Shipping Bill No. 378541 dated 26.07.2021, which was one of the two consignments subsequently intercepted by the DRI and found to contain red sanders. The SCN further alleged that multiple bank transactions were made from Shri Satish Kumar T to the appellant's bank account. Based on the statement of Shri Satish Kumar T and digital evidence in the form of WhatsApp calls and conversations, it was alleged that the appellant facilitated the perpetrators in the illegal export of red sanders in respect of six consignments and received financial consideration for such facilitation. On this basis, the SCN charged the appellant with abetting the illicit export of red sanders. The LAA, after considering the allegations, imposed penalties of Rs. 2,86,214/- under Section 114(1) and Rs. 14,31,070/- under Section 114AA of the Act.



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4.6.2 *The appellant, as elaborated in paragraph 2.4 above, advanced detailed grounds of appeal. The principal contentions are that Shipping Bill No. 3378541 dated 26.07.2021 was an RMS-assessed Bill without any instructions for open examination, with industrial ductile pipes declared as the consignment; that the LEO was issued on the basis of the inspection report uploaded by the Inspector, which contained no adverse remarks; and that the LAA has remained silent on the nature of any deviations or incorrect actions attributable to the appellant. It is further contended that the appellant was denied the opportunity to cross-examine the witness and to inspect the alleged goods. The pro rata average value determined in the Show Cause Notice (SCN) for purposes of confiscation and penalty is based on mixed consignments covering two Shipping Bills, each having distinct statutory positions, which renders the valuation unsustainable. The appellant also pointed to several procedural lapses, including non-supply of legible copies of RUDs, and placed reliance on various judicial precedents. Moreover, it is submitted that there are no specific findings by the LAA establishing the allegations of abetment or of knowingly accepting the documents relating to Shipping Bill No. 3378541 dated 26.07.2021. On these grounds, the appellant has pleaded for setting aside the penalties imposed under the impugned order.*

4.6.3 *I find that the allegations in the SCN are not confined merely to the LEO issued in respect of Shipping Bill No. 3378541 dated 26.07.2021, but extend to the alleged facilitation of the perpetrators in the illegal export of six consignments of red sanders. The investigation revealed multiple transactions from the bank account of Shri Satish Kumar T to the account of the appellant, for instance, on 15.06.2021 an amount of Rs. 30,000/-, on 15.07.2021 amounts of Rs. 1,00,000/-Rs. 75,000/- and 16.07.2021 Rs. 25,000/-. From the appellant's statement recorded on 13.08.2021, it is noted that he initially claimed only a passing acquaintance with Shri Satish Kumar T. However, upon being confronted with the account statement and transaction details, the appellant admitted to having received these amounts due to severe financial difficulties in his personal life, asserting that they were taken as hand loans to be repaid shortly. It is significant that these transactions occurred within two months prior to the interception of the*



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consignments and during the intervening period when SBs were filed in the name of the same exporter, M/s TEAC Engineers UT2. The inconsistencies in the appellant's statements and the explanation of "hand loan" are not convincing. Further, the appellant has not provided any valid explanation in his grounds of appeal for these financial transactions with one of the principal accused. The records therefore do not support the appellant's claim of innocence regarding the activities of the perpetrators. In addition, the recovery of numerous WhatsApp conversations and call logs evidences the appellant's constant contact with Shri Satish Kumar T. This prima facie deprives the appellant of immunity under Section 155 of the Customs Act, 1962. At the same time, the appellant has raised issues relating to denial of natural justice, specifically the non-supply of clear copies of RUDs and the methodology adopted for valuation of consignments for the purpose of imposing penalties. I find that these aspects require re-examination. Copies of all relied-upon documents must be furnished to the appellant in order to uphold the principles of natural justice, and the criteria adopted for determining the quantum of penalties must be revisited. However, I concur with the LAA that the Customs Act does not confer an absolute right to cross-examination, and that there is no violation of natural justice where no specific reasons have been advanced for seeking such cross-examination. In view of the above findings, I direct that the appellant be provided with the copies of RUDs sought and that the matter be re-examined afresh by the LAA in accordance with the principles of natural justice. The appellant shall be at liberty to make additional submissions during the remand proceedings.

4.7 Respondent No. 3 in Department appeal: Shri Ravinder Pawar

4.7.1 The respondent, serving as Shed Inspector, had examined the goods covered under Shipping Bill No. 2190821 dated 03.06.2021. The Department noted that Shri Satish Kumar T, in his statement, admitted to having earlier exported red sanders under the said shipping bill, which was selected for examination He further stated that he had made monetary payments to secure clearance of the consignment and had continued to pay the respondent for facilitating subsequent illicit exports of red sanders. In his statement,



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the respondent denied the allegations but acknowledged that he used to meet Shri Satish Kumar T and had requested him to arrange taxi services, for which no payment was made. In a subsequent statement, however, Shri Satish Kumar asserted that the respondent was concealing the true facts. He clarified that his assistant, Shri Sureah T, was deputed to collect documents relating to shipping bills filed for red sanders exports. Shri Suresh T, in his statement, confirmed that as directed by Shri Satish Kumar T, he attended the examination of Shipping Bill No. 2190821 dated 03.06.2021. He deposed that the respondent partially opened the lid of the consignment, pointed out that some wood was visible, and cautioned that if the consignment was fully opened, it would be captured on camera. The respondent then closed the consignment and informed him about the money to be collected. Based on these statements, along with evidence recorded from other persons involved, the Show Cause Notice alleged that the appellant had abetted the illicit export of red sanders. Consequently, the Adjudicating Authority imposed a penalty of Rs.8,81,461/-under Section 114AA of the Act.

4.7.2 The Department has preferred an appeal against this appellant, arraying him along with two others as respondents. The grounds urged by the Department in respect of these three respondents are set out in paragraph 2.5 above. In essence, the LAA has held that all seven consignments were liable to confiscation under Section 113 of the Act. The LAA has also recorded findings regarding the roles played by each of the three noticees and imposed penalties upon them under Section 114AA for their involvement in the attempted illegal export. However, the LAA ought to have additionally imposed penalty under Section 114(i) of the Act upon these noticees, but failed to do so in the O1O, Since their acts rendered the goods liable to confiscation under Section 113, the three noticees are equally liable to penalty under Section 114, as was specifically proposed in the Show Cause Notice.

4.7.3 1 note that the respondent had opened and examined the goods covered under Shipping Bill No. 2190821 dated 03.06.2021, one of the disputed consignments. On the basis of the statements of Shri Satish Kumar Tand others, athers, the SCN alleged that the goods



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under the said shipping bill comprised red sanders, and that the respondent abetted the illicit export by furnishing a false examination report for monetary consideration. From the statement dated 01.08.2021 of Shri Satish Kumar T, it emerges that the respondent was aware of the presence of red sanders in the consignment and failed to conduct a proper examination, instead demanding Rs. 8 lakhs to permit the export. It was further stated that the examination report was issued without actual verification of the goods, and that the respondent advised modification of the pallet/package width so as to evade detection by the scanner. Shri Satish Kumar T also deposed that Rs 5 lakhs was paid to the respondent, who was thereafter dropped at Guntakal Railway Station in Andhra Pradesh, and that an additional Rs. 6 lakhs was transferred through hawala channels at the respondent's insistence. The respondent's own statement confirms his continuous acquaintance with Shri Satish Kumar T during June-July 2021. I further note that the Authorized Representative of the respondent appeared for personal hearing before the LAA. Being a departmental officer conversant with adjudication procedures, it is not convincing that the respondent was unaware of service of the OIO. When the OIO was duly served on several other persons involved in the case, it is difficult to accept that the respondent made no effort to ascertain the outcome of adjudication, or that the Department deliberately withheld the impugned order. In the submissions on the appeal also, the respondent has not disclosed his present communication address. Nevertheless, these aspects require re-examination by the Adjudicating Authority, with confirmation from the records, to ensure that the principles of natural justice have not been violated. It is further noted that the respondent has not filed any appeal against the impugned order imposing penalty under Section 114AA of the Customs Act. At this stage, I reiterate the finding in para 4.6.3 that cross-examination is not a matter of right. In the circumstances, I consider it appropriate to remand the matter to the LAA to re-examine the Department's contention in the present appeal and to determine whether penalty is liable to be imposed on the respondent under Section 114(i) of the Act.

4.8 In light of the foregoing discussion, I consider it appropriate to remand the matter to the LAA for fresh examination, covering the four appeals filed by the parties as



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well as the appeal preferred by the Department against the same impugned order.

5. Considering the aforesaid discussions and observations, I pass the following order:

ORDER

The instant appeals, namely: Appeal No 415/2025 Cus (B-Air) dated 03.06.2025 filed by Shri K Ananthapadmanabha Rao, Bengaluru; Appeal No. 423/2025 Cus (B-Air) dated 11.06.2025 filed by M/s UDL Logistics Pvt. Ltd., Bengaluru; Appeal No. 424/2025 Cus (B-Air) dated 11.06.2025 filed by Shri K.V. Dushyanth, Bengaluru; Appeal No. 445/2025 Cus (B-Air) dated 12.06.2025 filed by Shri C. Venkatesh, Bengaluru; and Appeal No. 504/2025 Cus (B-Air) (Dept) dated 15.07.2025 filed by the Assistant Commissioner of Customs, Airport & Air Cargo Commissionerate, Bengaluru, all arising out of Order-in-Original No. 03/2025-26 dated 15.04.2025 passed by the Additional Commissioner of Customs, Airport & Air Cargo Commissionerate, Bengaluru, are allowed by way of remand in terms of Section 128A(3) of the Customs Act, 1962. The matter is remitted to the Adjudicating Authority for fresh consideration in accordance with law, ensuring adherence to the principles of natural justice.

*Dr. Chetan R.C)
Commissioner of Customs (Appeals)"*

12. The aforesaid facts and circumstances including the orders passed by the Sessions/Special Court and the Appellate Authority of Customs will clearly indicate that the respondent was not justified in declining the request of the petitioner for grant of personal hearing despite bringing it to his notice that the petitioner



had filed a discharge application and the same was pending consideration before the Special/Sessions Court.

13. In addition there to, the petitioner having sought for an opportunity of personal hearing as late as on 07.11.2025, the respondent did not even advert to the said request nor refer to the same nor provide an opportunity of personal hearing to the petitioner as can be seen from the impugned order which is clearly violative of principles of natural justice warranting interference by this Court in the present petition which deserves to be allowed and the matter remitted back to the respondent for reconsideration afresh and in accordance with law.

14. Insofar as the contention urged by the learned counsel for the respondent that in view of availability of equally efficacious and alternative remedy, the petitioner is not entitled to any relief in the present petition is concerned, in view of the findings recorded by me herein before that the impugned order is violative of principles of natural justice, mere availability of an appeal remedy would not come in the way of this Court exercising its jurisdiction under Articles 226 and 227 of the Constitution of India and as such,



the said contention urged by the learned counsel for the respondent cannot be accepted.

15. In the result, I pass the following:-

ORDER

- (i) Petition is hereby *allowed*.
- (ii) The copy of order in original No.01/2025 dated 10.11.2025 passed by respondent No.1 vide Annexure A is hereby set aside.
- (iii) The matter is remitted back to respondent No.1 for reconsideration afresh in accordance with law.
- (iv) Petitioner shall appear before respondent No.1 on 18.05.2026 without awaiting further notice from respondent No.1.
- (v) Liberty is reserved in favour of the petitioner to submit additional pleadings documents etc., before respondent No.1, who shall consider the same and provide sufficient and reasonable opportunity to the



petitioner and pass appropriate orders in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BH
List No.: 1 SI No.: 3