

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 01

Customs Appeal No. 10473 of 2017

(Arising out of OIO-AHM-CUSTOM-000-COM-009-16-17 Dated-04/11/2016 passed by Commissioner of CUSTOMS-AHMEDABAD)

Ramraj Natural Resources Pvt Ltd

.....Appellant

401 And 413, Garden Gate Apartment,
Opp. Chopati, Nana Varachha, Varachha Road,
Surat, Gujarat

VERSUS

C.C.-Ahmedabad

.....Respondent

Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

WITH

Customs Appeal No. 10474 of 2017

(Arising out of OIO-AHM-CUSTOM-000-COM-009-16-17 Dated-04/11/2016 passed by Commissioner of CUSTOMS-AHMEDABAD)

Shri Vipul Gordhanbhai Desai

.....Appellant

104, Garden Gate Apartment,
Opp, Chopati, Nana Varachha, Varachha Road,
Surat, Gujarat

VERSUS

C.C.-Ahmedabad

.....Respondent

Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

AND

Customs Appeal No. 10871 of 2017

(Arising out of OIO-AHM-CUSTOM-000-COM-009-16-17 Dated-04/11/2016 passed by Commissioner of CUSTOMS-AHMEDABAD)

Abhishek Goyal

.....Appellant

Director Of M/s Kruti Bulions & Jewellers
10 Chhota Sarafa Diamond Trade Centre
INDORE, MP

VERSUS

C.C.-Ahmedabad

.....Respondent

Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

APPEARANCE:

Shri. Sudhanshu Bissa, Advocate for the Appellant

Shri. Rajesh K Agarwal, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Final Order No. 10095-10097 /2025

DATE OF HEARING:05.02.2025

DATE OF DECISION:05.02.2025

In the instant case, the appellant fairly submits that the main party i.e. M/s. Mulchand M Zaveri who has imported the goods has already been subjected to penalty and the matter has been further appealed against by them. He also points out that while imposing and upholding the penalty, the Hon'ble Tribunal reduced the penalty against the firm but reduced the same. However, in respect of individual partner involved the relief was given against the whole penalty to partner of Sanjaykumar M Patel of M/s. Mulchand M Zaveri, on the ground that penalty both on the firm as well as the partner cannot be imposed. He therefore pleaded that in these matters he is representing three appellants from the same proceedings i.e M/s. Ramraj Natural Resources Pvt Ltd which has been subjected to penalty of Rs. 20,00,000/- under Section 112(a) and its employee Shri. Vipul Gordhanbhai Desai has been subjected to penalty of Rs. 50,000/- under Section 112(a) and Abhishek Goyal Managing Director Of M/s Kruti Bulions & Jewellers Pvt Lt. has been subjected to penalty of under Section 112(a) of Rs. 5,00,000/. He stated that conditions for penalty under Section 112(a) has not been fulfilled against three individuals and knowledge of offending goods is not

emanating in their conduct. Therefore, the penalty is required to be set aside.

2. Learned AR on the other hand indicates through para 30.1 to 32.2 of the impugned order that there was culpability attached to the conduct of all the three individuals who are the appellants in the matter, there is knowledge coming from their statement which have been recorded under Section 108 and are therefore admissible and this Tribunal has already penalized the main importer for mis-declaration and therefore penalty deserves to be imposed and upheld.

3. Learned Advocate in response submits that even if his prayer that there no penalty imposable is not agreed to, still the quantum of penalty deserves to be reconsidered because against the main party at this stage, the penalty of Rs. 10 Lakh only has been sustained, therefore, imposition of penalty against M/s. Ramraj Natural Resources Pvt Ltd in any case is excessive being 20 lakh and since his role was considered much less compared to the main party even in the adjudication order, therefore quantum reduction in penalty is called for. He similarly pleaded that Shri. Vipul Gordhanbhai Desai is simply an employee and was acting under control of his employer and therefore cannot be considered to have complete knowledge of the matter or any incentive to commit any offence and therefore the penalty of Rs. 50,000/- against him was also unjustifiable. He similarly pleaded that Abhishek Goyal who has allegedly has minor role compared to both the main party of M/s. Mulchand M Zaveri as well as M/s.

Ramraj Natural Resources Pvt Ltd and has been subjected to Rs. 5 lakh, accordingly also deserved to be subjected to reduced penalty.

4. This Court has considered the rival submissions. The material on record has been evaluated by the Commissioner (Appeals) and also subsequent involvement including the reduction/remission of penalty by this bench. It is of the considered opinion that reduction of penalty on the ground pleaded by the learned advocate is called for. Accordingly, while upholding the penalty as pleaded by the AR, the same is directed to be reduced as follows. M/s. Ramraj Natural Resources Pvt Ltd from Rs. 20 lakh to Rs. 3 lakh. On Shri Vipul Gordhanbhai Desai who is employee of M/s. Ramraj Natural Resources Pvt Ltd from Rs. 50,000/- to Rs. 10,000/ and on Shri. Abhishek Goyal from Rs. 5 lakh to Rs. 1 lakh.

5. With the above modification, the order is upheld. Appeal is partly allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)