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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 10352 of 2021

[Arising Out Of OIO-MUN-CUSTM-000-COM-25-20-21 Dated- 24/03/2021 passed by the Commissioner of CUSTOMS-MUNDRA)

SATNAM STEEL .....**Appellant**
Plot No 11-B H Road Gidc Estate Ahmedabad
Rajkot Highway Kuvadava
Rajkot, Gujarat

VERSUS

C.C.-MUNDRA .....**Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat-370421

WITH

Customs Appeal No. 10353 of 2021

[Arising Out Of OIO-MUN-CUSTM-000-COM-25-20-21 Dated- 24/03/2021 passed by the Commissioner of CUSTOMS-MUNDRA)

VISHAL NATWARLAL PATEL .....**Appellant**
Power Of Attorney Holder Of Satnam Steel Plot No 11-B H
Road Gidc Estate Ahmedabad Rajkot Highway Kuvadava
Rajkot, Gujarat

VERSUS

C.C.-MUNDRA .....**Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat-370421

APPEARANCE:
Shri. P D Rachchh, Advocate for the Appellant
Shri. P. Ganesan, Superintendent (AR) for the Respondent

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

Final Order No. 10699-10700/2025

DATE OF HEARING:01.09.2025
DATE OF DECISION:01.09.2025

SOMESH ARORA

1. In the instant case, the main appellant has already settled the case. The Matters before this Court are of the co-accused who have been penalized under Section 114(iii) and under Section 114AA of the Customs Act, 1962. Learned Advocate pleads that he is only on the point that penalty under Section 114AA of the Customs Act, 1962 was not imposable, as the same has been sought to be additionally imposed apart from Section 114(iii), that despite the fact with the goods were exported. In this connection, he seeks to rely on the decision of coordinate Bench in the matter of Riyaz sayed Abdul Aziz Vs. Commissioner of Customs (Export) whereby the Hon'ble Bench vide Final Order No. A/86050/2025 dated 04.07.2025 has decided as follows in the para 9.5 reproduced below:-

> *Para-"9.5 On perusal of the legal provision under of Section 114AA ibid, it transpires that the penalty under this section was brought into the Customs Act by Taxation Laws (Amendment) Act, 2006 w.e.f. 13.07.2006. During the examination of the Section 114AA ibid by the Standing Committee on Finance on the representatives of trade expressing that the proposed provisions were very harsh, which might lead to harassment of industries, by way of summoning an exporter/importer to give a 'false statement' etc., it was explained by the Ministry of Finance that new Section 114AA ibid has been proposed consequent to the detection of several cases of fraudulent exports, where the exports were shown only on paper and no goods crossed the Indian border. Thus, it has been made clear that the imposition of enhanced penalty under Section 114AA ibid is applicable only for serious frauds being committed in cases where no goods are being exported, but only papers are being created for availing the number of benefits under various export promotion schemes. In the present case before us, where in all the shipments goods have been exported, is entirely different from the case of paper exports without actual export of goods, and therefore the provisions of Section 114AA ibid does not apply to the present case of the appellant-exporter, where the export goods have actually been exported, as neither there was any dummy export being made only on paper, nor there was any criminal intent involving evasion of duty. Hence, we are of the considered view that imposition of penalty under Section 114AA ibid does not arise in the present case of the appellant."*

2. This Court finds that in the instant case also the goods have been exported. The legal proposition laid down in the case law (cited supra) is equally applicable in the instant case also.

3. Learned AR in view of the decision cited has no objection, if the same is applied to the factual matrix of this case also. However, he reiterates the finding of the lower authorities for record.

4. In view of the foregoing decision, party is entitled to relief. Same is allowed to the extent penalty imposed under Section 114AA is concerned.

5. Appeal allowed to the above extent. Appeal partly allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi