

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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10544 of 2025

(Arising out of Order-in-Appeal No. AHD-CUSTOM-000-APP-284-288-24-25 dated 27.01.2025 passed by Commissioner (Appeals) - Ahmedabad)

Nachiket Satishbhai Mavalankar

401/501, 4th Floor, Pragati 15 Apartments
Near Mithakali Ellis Bridge, Ahmedabad
Gujarat-380006

...Appellant

VERSUS

C.C. – Ahmedabad

Office of the Pr. Commissioner of Customs
1st Floor, Custom House, Opposite Old High Court
Navranpura, Ahmedabad-Gujarat-380009

...Respondent

APPEARANCE:

Shri Manish Jain with Ms. Surbhi Chandani, Advocate appeared for the Appellant

Shri Sarjeet Kumar, Superintendent (AR) appeared for the Respondent

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

FINAL ORDER NO. 11349 /2025

DATE OF HEARING: 21.11.2025

DATE OF DECISION:21.11.2025

SOMESH ARORA

In this matter a penalty of Rs. 7 Lakh under Section 114(3) of the Customs Act, 1962 and Rs. 3 Lakh under Section 114 AA has been imposed on the appellant. The department initially found that the appellant might have been involved in issuing erroneous certificate, consequent penalties, fine imposed against them. The advocate for the appellant drew our attention to order-in-original which inter alia, in para D observed as follows:

"In Para 9.14, 9.15, 9.16, 9.17, 9.19, of SCN, the Statements of Gaurav Dilip Panwar, Director of RRPL was recorded on different dates is reproduced, "If the same is perused, the said Statements supports the case of the present noticee since it is Stated that "Shri Rajesh Gangan took the export cargo to Shri Nachiket Mavalankar, Government approved valuer...." and it further states that He left for Mumbai on 22.5.2019. On 22.5.2019, he received a call from Shri Rajesh Gangan (he did not remember the cell number as he had destroyed his cell phone on 23.5.2019) informing him that DRI had stopped the consignment. Since Both of them knew, the Truth, both fled separate ways...."

The said noticee has named the names of other noticees and their alleged role, whereas it nowhere stated that the present notice was

having any knowledge about the said mis-declaration of export cargo. This fact recorded by the Department, itself proves the case of the present noticee beyond a shadow of doubt that the present noticee was not having any knowledge with regard to the alleged mis-declaration of export cargo and the same is even affirmed from the Statements recorded by DRI of other noticees.”

1.1 Despite noting no knowledge and finding that he was not part of conspiracy, still the aforesaid penalties were imposed and same were sustained by Commissioner (Appeals) vide impugned order.

2. It was also pointed out by the appellant’s advocate that despite the findings of the original authority of not having knowledge by the appellants, the Commissioner (Appeals) in contrary findings as contained in para 10.1 notes that:

“..... I also agree with the findings of the adjudicating authority that the Appellant No. 5 has knowingly and intentionally signed Valuation Certificate which was false and incorrect in material particulars. Therefore, the appellant No. 5 have rendered himself liable for penalty under Section 114AA of the Customs Act, 1944.”

This as per appellant is incorrect finding and contrary to what has been recorded by the original adjudicating authority as indicated above.

3. Confronted with this factual inaccuracy in the impugned order, learned AR reiterates the findings of the impugned order.

4. The advocate in support of his contention in rejoinder relies upon the decision of Anchor Logistics vs C.C. 2013 (290) ELT 334 (Guj.) as well as Bhatia Shipping Pvt. Limited 2024 (19) Centax 347 (Tri. Amd.) on the point of absence of knowledge, not justifying the penalties invoked. He also relies on various other case laws on different points.

5. This court finds, that the decisions quoted by the appellants are on exactly on the point of knowledge required for imposition of penalty under Section 114 and also another decision quoted by the appellant reported in 2013 (292) ELT 68 (Tri. Amd) in HRMM Agro Overseas Pvt Ltd. on the aspect of knowledge for imposition of penalty under Section 114AA.

6. Collectively this court therefore, finds that the knowledge is required to be established before imposition of penalty and as there was adverse findings on this aspect, as reproduced above, therefore, the same could not have been sustained vide the impugned order, writing a

contrary position which is factually incorrect. In view of foregoing, appeal is allowable. The same is allowed with consequential relief.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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