

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

REGIONAL BENCH- COURT NO. 02

CUSTOMS Appeal No. 10914 of 2022

[Arising Out Of OIA-KDL-CUSTM-000-APP-05-06-22-23 Dated- 26/08/2022 passed by the Commissioner of CUSTOMS-KANDLA)

MAYANK METALLURGICAL PVT LTD

Now Ms Global Extrusion Pvt Ltd Plot No 238
Gidc Phase-Ii Dared Jamnagar
Gujarat

.....Appellant

VERSUS

C.C.-KANDLA

Custom House, Near Balaji Temple,
Kandla, Gujarat

.....Respondent

WITH

CUSTOMS Appeal No. 10915 of 2022

[Arising Out Of OIA-KDL-CUSTM-000-APP-05-06-22-23 Dated- 26/08/2022 passed by the Commissioner of CUSTOMS-KANDLA)

SHRI MANOJBHAI D PATEL

Director Of Ms Mayank Metallurgical Pvt Ltdnow
Ms Global Extrusion Pvt Ltd Plot No 238 Gidc Phase-Ii Dared
Jamnagar, Gujarat

.....Appellant

VERSUS

C.C.-KANDLA

Custom House, Near Balaji Temple,
Kandla, Gujarat

.....Respondent

APPEARANCE:

Shri. Vikas Mehta, Consultant for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

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

Final Order No. 11365-11366/2025

DATE OF HEARING:18.11.2025
DATE OF DECISION:26.11.2025

SOMESH ARORA

In the instant case, the appellant is a supporting manufacturer in 02 advance licences obtained by a merchant manufacturer (M/s. Mayank Raw Mint Private Limited, Jamnagar). One Shri Gopalbhai Dayabhai Patel, was a common Director in both, i.e. the appellant and the said merchant manufacturer. The said merchant manufacturer imported goods, namely, brass scrap at Kandla under these advance licences and sent the same to appellant's unit for manufacture of extruded brass rods. Investigation by DRI revealed that out of 49,590 MT of brass scrap, 19,414 MT was used by appellant in manufacture of brass rods, which was exported. It was revealed that the said balance quantity was used in manufacture of finished goods which were sold in local market and inferior quality of brass scrap was purchased from local market for returning back to the importer. The record maintained by appellant was found to be manipulated so as to show dispatch of balance duty free imported goods to one M/s. Trishul Products. Both Shri Gopalbhai D. Patel (Common Director) and Shri Manoj Patel (Director of M/s. Mayank Metallurgical Pvt. Ltd.) have admitted these facts in the course of statements recorded by DRI. Post issuance of show cause notice, the importer (M/s. Mayank Raw Mint Private Limited) and common director Shri Gopalbhai D. Patel) approached Hon'ble Settlement Commission by paying duty amounting to Rs. 16,58,815/- along with interest and also paid fine of Rs. 50,000/- and penalty of Rs. 20,000/- on the unit and Rs. 10,000/- on Shri Gopalbhai D. Patel, as levied by the Settlement Commission in their Order No. 61/FINAL ORDER/CUS/KNA/2010 dated 9.9.2010.

2. The appellants were never informed about their approach to Hon'ble Settlement Commission and the settlement of the case. Consequently, the appellants had to suffer adjudication which has resulted in imposition of penalty. The appellants hereby say and submits that it is duly acknowledged in the show cause notice (on page 69 ibid) that Shri Gopalbhai D. Patel had played a decisive role in misusing the exemption and it was he had perpetrated the offence. Though he was a common director in both the units, he applied before Hon'ble Settlement Commission of merchant manufacturer unit and himself only leaving the appellants in dark, which has eventually resulted in settlement of their case at a nominal penalty while excessive penalty is imposed on the appellants.

2.1 In the above backdrop, it is the prayer of appellants to reduce the quantum of penalty by appreciating that there must be parity between the quantum of penalty imposed on importer and their director who is the

perpetrator of offence, and the appellants, who have acted at their behest and have not been shown as beneficiaries of the said offence.

3. Learned AR reiterates the finding against co-accused and penalty must be imposed for both appellant have knowingly dealt with the offending goods.

4. This Courts find that penalty against M/s. MAYANK METALLURGICAL PVT LTD of Rs. 3,03,233/- under Section 112 (a) has been imposed and on SHRI MANOJBHAI D PATEL , Director penalty under Section 112(a) of 3,03,233/- has been imposed and also he has subjected to penalty of Rs. 3,03,233 under section 114AA. As against this, the settlement commission had imposed only a penalty of Rs. 20,000/- against the importing unit and Rs. 10,000/- against Shri. Gopalbhai Patel both of whom were Co- accused as pleaded by the Counsel. However, Settlements being in the nature of mediation proceedings and the outcomes arrived in them being on the basis of a devoted sui generis chapter cannot form a precedent for quantum of penalties for this Court.

4.1 In view of the foregoing, this Court is of the view that the lesser penalty though can be considered imposable against Shri. MAYANK METALLURGICAL PVT LTD and SHRI MANOJBHAI D PATEL, Director. Same need not be commensurate with quantum of Settlement Commission. Same is therefore reduced to Rs. 1,00,000/- against M/s. MAYANK METALLURGICAL PVT LTD under Section 112(a) and against SHRI MANOJBHAI D PATEL the same shall be reduced to Rs. 1,00,000/- under Section 114AA. The separate penalty on SHRI MANOJBHAI D PATEL under Section 112(a) is also reduced to Rs. 1,00,000/-. The order impugned is modified to that extent.

5. Appeals are partly allowed.

(Pronounced in the open court on 26.11.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)