

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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 11608 of 2017

[Arising Out Of OIA-AHM-CUSTM-000-COM-001-17-18 Dated- 31/05/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax- AHMEDABAD)

Mohammed Usman

.....Appellant

M/s. Shahrukh Trailor Service,
Near Verma Petrol Pump, Jaipur Road, Nh 8, Village-gangwana,
AJMER, RAJASTHAN

VERSUS

C.C.-Ahmedabad

.....Respondent

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

WITH

Customs Appeal No. 11771 of 2017

[Arising Out Of OIA-AHM-CUSTM-000-COM-001-17-18 Dated- 31/05/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax- AHMEDABAD)

Anwar Khan

.....Appellant

Driver House No.239, Village- Bithur,
Ajmer, Rajasthan

VERSUS

C.C.-Ahmedabad

.....Respondent

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

APPEARANCE:

Shri. Sharan Rayaprol, Advocate for the Appellant
Shri. P Ganesan, Superintendent (AR) for the Respondent

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

Final Order No. 10129-10130/2026

DATE OF HEARING:23.02.2026
DATE OF DECISION:23.02.2026

SOMESH ARORA

In the instant case, the diversion of the goods which were filled up in the factory of Marble Slabs under departmental supervision was attempted. On way, the truck was intercepted as the driver had diverted the goods to a particular warehouse, the same were being getting de-stuffed to put in Red Senders, when the interception took place by the DRI. The penalties on the owner of the truck has not been levied and on the main accused in the matter of Hanumansingh Lakhavat vs. C.C.-Ahmedabad vide Final Order No. 10189/2024 dated 11.01.2024 same has also been done away with. The owner of the vehicle i.e. Mohammed Usman was not subjected to any penalty for lack of knowledge. Only the truck driver was subjected to a meager penalty of Rs. 1 Lakh which has also been appealed against in the name of appellant i.e. Anwar Khan. In the instant case, redemption fine has also been imposed on Mohammed Usman whose vehicle was used in the attempted transportation of offending goods.

2. The Learned Advocate pleads that the lack of knowledge, which is a cause for not imposing penalty on Mohammed Usman is also the reason that the RF should not be imposed on him, as what was being done was only attempting of the smuggling of red senders, which was foiled by the DRI.

3. The Learned AR reiterated the order.

4. This Court has considered the submissions from both sides. It finds that there is no reason to do away with the penalty which in any case is very meager on the driver, who had diverted the containers and was actively involved in attempting to smuggle out red senders in the container. Having already suffered a very meager penalty, the same is sustained. As far as the redemption fine is concerned, the same has been imposed of Rs. 4 Lakh on

the truck for having been used as the vehicle for transportation of attempted smuggling. The fact that the department has not imposed penalties on the truck owner for whatever reason is no reason why the offending truck should not be subjected to redemption fine. As action in personam is different from action in rem, and driver was in employ of the vehicle owner. However, considering the overall circumstances and also that the department has not involved in the show cause, the owner of the truck, the RF is reduced to Rs. 1,00,000/-.

5. With the above modification, appeal is partly allowed.
6. Appeal partly allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi