

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT No. I
(E-hearing)
Customs Appeal No.70076 of 2021

(Arising out of Order-in-Appeal No.NOI-CUSTM-001-APP-797 to 799-20-21 dated 14/10/2020 passed by Commissioner (Appeals) Central Goods & Service Tax, Noida)

M/s HIM Logistics Pvt. Ltd.,

.....Appellant

(2151/3D, New Patel Nagar, New Delhi-100001)
VERSUS

Commissioner of Central Excise &

CGST, Noida

....Respondent

(C-56/42, Renu Tower, Sector-62, Noida-201301)

APPEARANCE:

Shri Devesh Tripathi, Advocate

Shri Mukesh Dubey, Advocate for the Appellant

Shri Manish Raj, Authorised Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70034/2025

DATE OF HEARING : 09 January, 2025
DATE OF DECISION : 09 January, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.NOI-CUSTM-001-APP-797 to 799-20-21 dated 14/10/2020 passed by Commissioner (Appeals) Central Goods & Service Tax, Noida upholding the Order-in-Original No.08/ADC/CUS/ICD-DD/2017 dated 31/03/2017 imposing penalty of Rs15,000/- (10,000/- +Rs.5,000/-) on the present appellant by stating as under:-

"a.ix. I impose a penalty of Rs.10,000/- (Rupees Ten Thousand only) upon M/s Him Logistics Pvt. Ltd., 2151/3D, New Patel Nagar, New Delhi-8 under Section 112 (a) of the Customs Act, 1962.

b.ix. I impose a penalty of Rs.5,000/- (Rupees Five Thousand only) upon M/s Him Logistics Pvt. Ltd., 2151/3D,

New Patel Nagar, New Delhi-8 under Section 112 (a) of the Customs Act, 1962.”

2.1 Appellant is Customs Broker having CHA licence no.R07/2004, allegation against him is that he had sought to clear certain goods imported by M/s Shiv Shakti Enterprises and mis-declared the value. It is also alleged that in the case of same importer earlier the value was enhanced and the goods were cleared at 1.24/sq meter by the Customs where the current bill of entries against which the investigation was done have been filed at USD 1.02/sq meter. During the course of investigation importer accepted the exchange of under valuation and deposited the differential duty along with interest and penalties. Case against the present appellant is that he has been aware of the value at which the earlier Bill of Entries were cleared, should have advised accordingly.

2.2 After the issuance of show cause notice the case was adjudicated and penalties in respect of two bill of entries have been imposed by the original authority on the appellant. Commissioner (Appeals) have rejected the appeal filed by the appellant and upheld the penalties imposed upon him.

2.3 Aggrieved appellant have filed this appeal.

3.1 We have heard Shri Devesh Tripathi learned Counsel appearing for the appellant and Shri Manish Raj learned Authorised Representative appearing for the revenue.

4.1 We have considered the impugned orders along with the submissions made in appeal and during the course of argument.

4.2 It has been pointed out that the main noticee against whom the impugned order has been passed, have not filed any appeal in the matter against the impugned order. Hence, we are not concern with the parts of order against them and this appeal is taken up for consideration.

4.3 We find that appellant being a Customs Broker would have filed check list of the Bill of Entry on the basis of the documents provided to him by the importer. The documents including the invoice made available by the importer for final check. Undisputedly, the appellant has filed the Bill of Entries in the present case strictly in accordance with the documents provided.

4.4 Even Section 14 of the Customs Act provided that the assessment should have not done as per the transaction value and the Bill of Entries should have been filed on the basis of the actual transaction value only, which is reflected in the invoices provided. It may be the case that transaction value had been suppressed for which proceedings would be initiated by the way of investigation by the Customs Authorities leading to enhancement of the value. In the present case importer accepted the enhanced value and paid the duty accordingly. Hence, we do not find any case for alleging anything against the present appellant for the reason he is not an investigating agency or a customs officer to determine the correctness of the documents produced for filing. He has filed the bill of entries on the basis of documents after examining, as per the requirement of the provisions of the Customs Act, penalties cannot be upheld against the present appellant.

4.5 We find that certain violations of CBLR has been sought to be raised in the present proceedings. These are totally irrelevant as CBLR itself is a complete code providing for action against such contraventions if any. Revenue should have initiated proceeding for such contraventions under the provisions of CBLR.

4.6 We find no merits in the impugned order in respect of the present appellant.

5.1 Appeal is allowed and penalties imposed on the present appellant are set aside.

(Dictated and pronounced in open court)

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)