

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

REGIONAL BENCH - COURT NO.II

Customs Appeal No.70437 of 2025

(Arising out of Order-In-Appeal No.671-CUS-APPL-LKO-2024, dated - 29.10.2024 passed by Commissioner (Appeals) CGST & Central Excise, Lucknow)

M/s Mujahid Ali Khan

.....Appellant

(S/o Shri Athar Ahmad Khan,
R/o House No. 07, Mohalla Tripolla
Amroha, Uttar Pradesh 244221)

VERSUS

Commissioner, Customs (Preventive), Lucknow

....Respondent

(7th Floor, Apratyaksh Kar Bhawan,
Vibhuti Khand, Lucknow, Uttar Pradesh 226024)

APPEARANCE:

Shri Nagendra Krishna, Advocate for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.-70894/2025

DATE OF HEARING : 24.12.2025

DATE OF DECISION : 24.12.2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-In-Appeal No.671-CUS-APPL-LKO-2024, dated -29.10.2024 passed by Commissioner (Appeals) CGST & Central Excise, Lucknow.

2.1 Appellant was intercepted by the officers of Customs at Lucknow airport on the basis of APIS intelligence input on 18.07.2022. He had arrived from Dubai by Flight No IX-194.

2.2 The baggage (02 cartons) of the passenger was examined by the Customs in the presence of two independent

witnesses and different types of the airguns and its accessories were recovered from the 02 cartons.

2.3 On enquiry Appellant admitted that he knew that there are certain conditions/license/permissions required for import of these goods to be imported into India, but he does not have any kind of permission or documents relating to import of the above goods.

2.4 After enquiry and investigations in the matter, a Show Cause Notice dated 03.10.2022 was issued under Section 124 of the Customs Act, 1962 proposing confiscation of the seized goods alongwith imposition of penalties on the Appellant.

2.5 The Show Cause Notice was adjudicated vide Order-In-Original dated 30.06.2023.

2.6 Aggrieved Appellant filed appeal before the Commissioner (Appeal) which has been dismissed as per the impugned order.

2.7 Aggrieved Appellant has filed this appeal.

3.1 Heard Shri Nagendra Krishna, Advocate for the Appellant and Shri Santosh Kumar, Authorized Representative for the Revenue.

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

4.2 From the facts of the case as referred in Para 2.1 it is evident that this appeal is filed in case of seizure/confiscation of goods (air guns) during search of a person and his luggage after being intercepted at Lucknow Airport. The person had traveled from Dubai to India. The case being of a baggage seizure case, appeal against the order of Commissioner (Appeals) in this case could not lie before this Tribunal.

4.3 Rule 129A of the Customs Act, 1962 provides as under:-

129A. Appeals to the Appellate Tribunal-

(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order-

(a) -----

(b) an order passed by the "Commissioner (Appeals)] under section 128A;

(c) -----

(d) -----

[PROVIDED that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to,-

(a) any goods imported or exported as baggage;

(b) -----

(c) -----"

4.4 At Sl. No. 3 of the preamble to Order-in-Appeal dated 06.05.2024 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Lucknow following has been recorded:-

“5. सीमा शुल्क अधिनियम, 1962 की धारा 129 ए की उपधारा के प्रथम प्रावधान में क्लॉज़ (धारा) (ए), (बी) तथा (सी) में निर्धारित प्रकृति के मामलों में केंद्रीय उत्पाद शुल्क आयुक्त (अपील) के द्वारा पारित अपील पर आदेश के विरुद्ध ट्रिब्यूनल में अपील नहीं की जायेगी और ऐसे मामलों में उक्त अधिनियम की धारा 129 डी डी में निहित प्रावधान को देखा जाए।”

4.5 From the perusal of the above it is quite evident that in the present appeal the issue is in respect of the goods imported in the baggage as baggage by the Appellant. Thus the appeal before CESTAT in the present case is not maintainable. Similar view has been expressed in the following cases:

- Ashok Kumar [2000 (124) E.L.T. 770 (Tribunal)]
- Mahabubunissa [Mumbai bench Final Order No. A/85267-85268/2025 dated 17.02.2025 in Customs Appeal No. 85903 & 85904 OF 2022]

4.6 In the case of Ahamed Gani Natchiar [2022 (10) T.M.I. 100 - Madras High Court] Hon'ble Madras High Court has held as follows:

"7. Against the above background, the following questions arise for consideration:

a. Whether the Tribunal was right in rejecting the plea of the appellant herein of lack of authority/ jurisdiction of the Tribunal, in view of the fact that the issue according to the appellant relates to goods imported as "Baggage" and thus falls within the exclusions carved out in the proviso to Section 129A(1) of the Customs Act, 1962 which reads as under:

Section 129A(1) in the Customs Act, 1962

A reading of the above provision would show that the Tribunal shall not have jurisdiction to decide any appeal in respect of an order passed by the Commissioner (Appeals) under Section 128 A of the Customs Act, 1962 relating to any goods imported or exported as "Baggage"."

4.7 In view of the discussions as above, I hold that this appeal is not maintainable before this forum/ CESTAT.

5.1 The appeal is dismissed as not maintainable. Appellant may pursue for remedy before appropriate forum, if possible.

(Operative part of the order is pronounced in open court)

**Sd/-
(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**

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