CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.II

(E-Hearing)

Customs Appeal No.70054 of 2026

(Arising out of Order-in-Appeal No.NOI-CUS-001-APP-180-2025-26 dated 25/11/2025 passed by Commissioner (Appeals) Customs, Central Goods & Services Tax, Noida)

M/s Shri Balaji Logistics, **.....Appellant**
(S-35/5,DLF Phase-III, Gurgaon)

VERSUS

Commissioner of Customs, Central Excise &

CGST, Noida **....Respondent**

(4th Floor, C-232A/2 & C-232A/3,

GST Bhawan, Sector-48, Noida-201305)

WITH

Customs Appeal No.70055 of 2026

(Arising out of Order-in-Appeal No.NOI-CUS-001-APP-181-2025-26 dated 25/11/2025 passed by Commissioner (Appeals) Customs, Central Goods & Services Tax, Noida)

M/s Shri Balaji Logistics, **.....Appellant**
(S-35/5,DLF Phase-III, Gurgaon)

VERSUS

Commissioner of Customs, Central Excise &

CGST, Noida **....Respondent**

(4th Floor, C-232A/2 & C-232A/3,

GST Bhawan, Sector-48, Noida-201305)

APPEARANCE:

Ms Surabhi Chandani, Advocate &
Shri Mahesh Verma, for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

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

FINAL ORDER NOs.70077-70078/2026

DATE OF HEARING : 19 March, 2026
DATE OF DECISION : 19 March, 2026

SANJIV SRIVASTAVA:

These two appeals are directed against Order-in-Appeals as detailed in table below of the Commissioner Central Goods and Service Tax, Noida. By both the order in appeal the appeal filed by the appellant were dismissed by the Commissioner (Appeal) on the round of limitation as these have been file beyond the period which could have been condoned by the Commissioner (Appeal)

Appeal No	Order in Appeal No/ Date	Amount Involved Penalty (Rs)
C/70054/2026	NOI-CUS-001-APP-180-2025-26/ 25.11.2025	25,000/-
C/70054/2026	NOI-CUS-001-APP-181-2025-26/25.11.2025	75.000/-

2.1 Appellant is Custom Broker (AIMPK5658GCH001). The they filed bill of entries as detailed in table below, on behalf of M/s Giriraj Impex (IEC No 0515032875) and M/s Uttam Steel Alloys P Ltd. (IEC No 0592030474) claiming exemption from payment of Basic Custom Duty vide S No 967 (1) of Notification No 046/2011-Cus dated 01.06.2011 under ASEAN – India Free Trade Agreement, on the basis of the Country of Origin Certificate issued by Ministry of International Trade and Industry, Malaysia.

S No	Bill of Entry		Description of Goods	Supplier
	No	Date		
Importer: M/s Giriraj Impex (IEC No 0515032875)				
1	5747262	19.11.2019	Cold Rolled Stainless Steel Coil J3 Size 0.19, 0.26, 0.333MM	MH Megh Maju Enterprises, @5-2, Lorong Batu Nilam 5, Bukit Tinggi 41200 Kalang Selangor, Malaysia
Importer: M/s Uttam Steel Alloys P Ltd. (IEC No 0592030474)				
1	5553277	05.11.2019	Ex Stock Stainless Steel Cold Rolled Coil J3 Size	Pioneer ULT Enterprises, No 561 Lorong Batu Nilam 14A, Bandar
2	5707933	16.11.2019		
3	5708283	16.11.2019		
4	5906613	02.12.2019		

5	5986719	07.12.2019	0.26 MM	Tinggi 41200 Kalang Selangor, Malaysia
6	6202866	23.12.2019		
7	6306285	31.12.2019		
8	6306337	31.12.2019		
9	6306382	31.12.2019		
10	6408489	09.01.2020		
11	6544544	20.01.2020		
12	6665551	19.01.2020		
13	6681211	15.02.2020		
14	6897126	16.01.2019		
15	5553257	05.11.2019		
16	6664819	28.01.2020		
17	6665255	28.01.2020		

2.2 On further enquiries made by the department the Certificate of Origin on the basis of which the exemption from basic custom duty was claimed were found to be false.

2.3 Show cause notices as detailed in table below were issued to the importers for demanding the Custom Duty by the denying the claim to exemption. Penalties were proposed on the importer in terms of Section 114A and 114AA. Penalty on the appellant was proposed under Section 112.

Show Cause Notice		Importer
Number	Date	
08/2022	25.07.2022	M/s Giriraj Impex (IEC No 0515032875)
06/2022	27.07.2022	M/s Uttam Steel Alloys P Ltd. (IEC No 0592030474)

2.4 The Show cause notice dated 25.07.2022 was adjudicated by the Additional Commissioner vide order in original No 59/ADC/NOIDA Customs/2023-24 dated 30.11.2023,-

- Confiscating the impugned goods and allowing them to be redeemed against redemption fine.
- Confirming the demand of duty and imposing penalties under Section1 14A and 114 AA on the importer
- Imposing penalty of Rs 25,000/- on the appellant.

2.5 The Show cause notice dated 27.07.2022 was adjudicated by the Additional Commissioner vide order in original No 51/ADC/NOIDA Customs/2023-24 dated 30.11.2023,-

- Confiscating the impugned goods and allowing them to be redeemed against redemption fine.
- Confirming the demand of duty and imposing penalties under Section1 14A and 114 AA on the importer
- Imposing penalty of Rs 75,000/- on the appellant.

2.6 Appellant filed appeal before the Commissioner (Appeal) against both the orders. Both the appeals have been dismissed as per the impugned orders referred in para 1 above.

3.1 I have heard Ms Surabhi Chandani Advocate for the appellant and Shri Santosh Kumar, Authorized Representative for the revenue.

3.2 Counsel for the appellant submitted:

- Both the appeals filed by the appellant have been dismissed by the Commissioner (Appeal) on the ground of delay in filing the appeal.
- Appellant had not received the copies of both order in original dated 30.11.2023.
- They came to know about the said orders only when letter dated 18.12.2024 proposing to recover the amounts of penalty was delivered to them.
- In response to the recovery notice they made correspondences with department for providing the copies of the order in original vide their letter dated 03.01.2025 and 23.01.2025.
- The copies of the order were provided by the jurisdictional officers to them only vide letter dated 28.04.2025.
- After receipt of the orders they filed the appeals before Commissioner (Appeal) on 02.06.2025, i.e. within the prescribed period of limitation.
- Reliance is placed on the following decisions:
    - Regent Overseas Pvt Ltd. [2017 (6) GSTL 15 (Guj)];
    - Gupta Ajay Kumar [Final Order No 70564/2025 dated 07.08.2025 of Allahabad Bench of CESTAT];

- HCL Technologies Ltd. [2017 (48) STR 129 (T)];
- M T & N International Corporation [2021 (378) ELT 800 (T)

3.3 Authorized Representative reiterated the findings recorded in the impugned orders.

4.1 I have considered the impugned order along with the submissions made in appeal.

4.2 Appellant has in the appeal memo, at Sl No 14 appellant has declared the penalty amount to be "Rs.25,000/- under Section 112(a)(ii) of the Customs Act, 1962 and in the second appeal i.e. C/70055/2026 penalty amount to be "Rs.75,000/- under Section 112(a)(ii) of the Customs Act, 1962".

4.3 Second proviso to Section 129 A (1) reads as follows:

> *129 A. Appeals to the Appellate Tribunal.—*
>
> *(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—*
>
> *…………..*
>
> *Provided further that] the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c) or clause (d) where—*
>
> *(i) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or*
>
> (ii) *the amount of fine or penalty determined by such order, does not exceed two lakh rupees.*

4.4 Total amount of penalty involved in these appeals is Rs.25,000/- and Rs 75,000/- respectively. As the amount of penalty involved in each of the appeal is less than Rs.2 lakhs, I do not find any reason for admitting and considering these appeal by Tribunal

4.5 In case of Roots Multiclean Ltd [2016 (336) E.L.T. 25 (Mad)] Hon'ble Madras High Court has held as follows:

"4.3 A perusal of Section 35B of the Act would go to show that sub-section (i) specifies orders against which appeal lies to the Appellate Tribunal and the proviso to sub-section (i) stipulates three clauses of cases, which have to be decided by the Central Government, in Revision, under Section 35EE of the Act. Under the second proviso to Section 35B of the Act, the Appellate Tribunal is vested with discretion to refuse to admit an appeal, in respect of the order referred to in clause (b) or clause (c) or clause (d), where,

(i) in any disputed case, other than a case, where the determination of any question having a relation to the rate of duty of the excise or to the value of goods for the purpose of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved or

(ii) the amount of fine or penalty determined by such order does not exceed two lakhs rupees.

4.4 The CESTAT may, at its discretion, refuse to admit an appeal, if the (a) duty involved or (b) difference of duty involved or (c) penalty involved is less than Rupees two lakhs. However, such appeal cannot be refused if the issue pertains to valuation or rate of duty. Originally the limit was rupees fifty thousand which has been enhanced to Rupees two lakhs, by Finance Act (No. 2), 2014, with effect from 6-8-2014.

4.5 Further, in the case of J.K. Sharma v. Government of India, 1993 (66) E.L.T. 66 (Mad.), it has been held that the minimum monetary limit prescribed under Section 131B of the Customs Act, 1962, as per the proviso applies to each clause separately and not cummulatively and that under each clause, referring duty, differential duty, penalty or fine, *the limit will be separately applicable (analogus to Second Proviso to Section 35B(i) of the Customs Act, 1962).*

4.6 The Tribunal has a power to refuse to admit an appeal, at its discretion, if the amount involved (duty or fine or penalty) is not more than Rupees two lakhs. But, this would not be applicable, if the dispute is pertaining to cases other than duty or rate of duty or valuation of goods. Whether the disputed issue before the Tribunal was pertaining to cases other than duty, rate of duty or valuation of goods, and if that be so, whether the Tribunal is justified in dismissing the appeal under Section 35B of the Act is the issue to be decided."

4.6 The forwarding letter dated 28.04.2025 by which the order in original were provided to the appellant clearly stated as follows:

"In this regards, it is to inform that the above OIOs were dispatched and subsequently were sent through Speed Post. However, certified copies of Orders-in Original, as requested for are being provided, details are as under:

S No	*Order in Original No.*	*Name of the Addressee*	*Address*	*Speed Post No*
01	*-*	*-*	*-*	*-*
02	*59/ADC?NOIDA/CUS/23-24 dated 30.11.2023*	*M/s Giriraj Impex*	*C-12/2, 1st Floor, Industrial Area Wazirprur Delhi- 110052*	*EU20046-4565-IN*
		M/s Shri Balaji Logistics	*S-35/5, DLF Phase II, Gurugram*	*EU20046-4579-IN*
03	*51/ADC?NOIDA/CUS/23-24 dated 30.11.2023*	*M/s Uttam Steel Alloys Pvt Ltd.*	*C-14, Wazirpur Industrial Area Wazirprur Delhi- 110052*	*EU20031-4185-IN*
		M/s Shri Balaji Logistics	*S-35/5, DLF Phase II, Gurugram*	*EU20031-4296-IN*

From the perusal of the above it is evident that the order in originals had been sent to the appellant in normal course of business to their address by the speed post. The details of the speed post have been provided in the table above. These orders sent to the appellant were not returned back by the Department of Posts undelivered. In terms of Section 27 of the General Clauses Act, the orders have been delivered to the appellant within a reasonable time (about a week) from their date of dispatch to the appellant. The presumption under Section 27 of the General Clauses Act is a presumption in law and need to be rebutted by the aggrieved party by providing necessary evidences. I do not find any such thing available on record. Thus I am not in position to agree to the submissions made by the appellant in this regard. I also find that the decisions relied upon by the appellant are clearly distinguishable. However as I do not find the appeal maintainable as having very low amount involved I do not intend to discuss this aspect in much more detail.

4.7 However while making the above order, I will make it clear that neither Commissioner (Appeal) has in her order nor I have in this order examined the issue with regards to merits of penalty imposed upon the appellant. This order or the order in appeal should in no way be considered to be approving the penalty imposed upon the appellant.

5.1 Appeal is dismissed as not maintainable.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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