CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 21691 of 2016

(Arising out of Order-in-Appeal No. 489-490/2016 dated 30.06.2016 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Class India Pvt. Ltd.,
#487/B1, 14th Cross, IV Phase,
Peenya Industrial Area,
Bangalore – 560 078.

Appellant(s)

VERSUS

Additional Commissioner of Customs,
Inland Container Depot,
Container Corporation Road,
Whitefield plantation,
Near ITPL,
Whitefield,
Bangalore – 560 066.

Respondent(s)

With

Customs Appeal No. 21693 of 2016

(Arising out of Order-in-Appeal No. 489-490/2016 dated 30.06.2016 passed by the Commissioner of Customs (Appeals), Bangalore.)

Mr. Saurabh Gupta Manager
Class India Pvt. LTd.,
Import and Export
3487/b1, 14th Cross IV Phase,
Peenya Industrial Area,
Bangalore,
Karnataka – 560 078.

Appellant(s)

VERSUS

Commissioner of Customs,
Inland Container Depot,
Container Corporation Road,
Whitefield plantation,
Near ITPL,
Whitefield,
Bangalore – 560 066.

Respondent(s)

APPEARANCE:

Ms. Disha G, Advocate for the Appellant

Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

Final Order No. 20734 - 20735 /2025

DATE OF HEARING: 28.05.2025
DATE OF DECISION: 28.05.2025

PER : DR. D.M. MISRA

These two appeals are filed against Order-in-Appeal No.489-490/2016 dated 30.06.2016 passed by the Commissioner of Customs(Appeals), Bangalore.

2. Briefly stated the facts of the case are that the appellant are engaged in the manufacture of harvesters, transplanters and balers in India and also they do trading of replacement of equipments / parts of the product manufactured and sold by them. During the relevant period i.e. 2012-13, the appellant had imported rubber tracks which are used in the manufacturing of 'track type combined harvesters'. Also, they imported the said items as part of repair and maintenance agreements entered with customers for replacement. They availed the benefit of Notification No.12/2012-Cus dated 17.03.2012 (Sl.No.399) on the import of such rubber tracks. Investigation was initiated when they filed Bill of Entry No.8845054 dated 24.12.2012 and consequently resulted in seizure of the goods imported. The Department was of the opinion that the concessional rate of duty is not available when the imported goods are not used in manufactured but sold as components of 'track type combined harvesters' during the course of investigation. The appellant discharge differential duty of Rs.10,32,497/- and interest of Rs.81,610/- before the issuance of the show-cause notice on 05.07.2013. The show-cause notice was adjudicated and the amount of differential duty with interest paid by the appellant was appropriated and also 25% of the penalty amount equivalent to the differential duty paid was

appropriated. Besides, the adjudicating authority levied penalty of Rs.2 lakhs under Section 112(ii) and Rs.10 lakhs under Section 114AA of the Customs Act, 1962 on the appellant company besides directing confiscation of the goods with an option to redeem the same on payment of fine of Rs.6 lakhs; also a penalty of Rs.2 lakhs was imposed on Mr. Saurab Gupta, Manager under Section 112(ii) of the Customs Act, 1962. The appellant has challenged the imposition of penalty and fine before the learned Commissioner(Appeals) which had been rejected. Hence, the present appeals.

3. At the outset, the learned advocate for the appellants submits that in the present proceedings also, the appellant are not contesting the denial of the benefit of Notification No.12/2012-Cus. dated 17.03.2012 and also confirmation of demand of differential duty with interest which has been appropriated by the adjudicating authority. However, it is their contention that once the penalty has been imposed under Section 114A equivalent to the differential duty, imposition of penalties under Section 112(ii) and Section 114AA are too harsh; hence be set aside. It is her contention that the appellant had claimed the benefit on bona fide belief that the goods which are used for the manufacture of imported 'track type combine harvesters'; supplying for replacement and availed the benefit of the said notification but soon after it was brought to their notice that the said Notification is admissible, immediately before issuance of the show-cause notice, they discharged the differential duty along with interest and also paid 25% of the penalty equivalent to the differential duty under Section 114A of the Customs Act, 1962. She submits that therefore, the penalties imposed under Section 112(ii) and Section 114AA be dropped. Also, she submits that the confiscation of the goods is unwarranted and alternatively the quantum of fine imposed is also excessive. Further, she has argued that the imposition of

the penalty on the Manager Shri Saurab Gupta is not justified in the present case as on bona fide interpretation of the Notification, the concessional rate was claimed and there is no personal involvement of the employee in claiming the benefit of the said Notification which benefitted the company. No such evidence was brought on record indicating the personal involvement of the employee; therefore, personal penalty imposed on the employee be set aside. She has referred the decision of the Tribunal in the case of Class India Pvt. Ltd. Vs. CC, Amritsar [2018(364) ELT 137 (Tri. Chan.)].

4. Learned AR for the Revenue reiterates the findings of the learned Commissioner(Appeals).

5. Heard both sides and perused the records.

6. I find that the appellant admittedly imported rubber tracks and claimed exemption under Sl.No.399 of Notification No.12/2012-Cus. dated 17.03.2012 even though the same are not used in the manufacture of harvesters, transplanters etc. but used as replacement of parts. The appellant admitting their mistake discharged the entire amount of differential duty with interest before issuance of show-cause notice. It is the contention of the appellant that under a bona fide belief and interpretation of the said Notification, they have claimed the benefit on the imported goods; hence imposition of penalty under Section 112(ii) and Section 114AA are unwarranted when the penalty had already been imposed under Section 114A of the Customs Act, 1962 which they have discharged. I find substance in the argument of the learned advocate for the appellants. In the interest of justice, therefore, the penalties imposed under Section 114A is upheld. The penalties imposed under Section 112(ii) and Section 114AA are liable to be set aside and accordingly set aside. Since there is no evidence on

record regarding involvement of the Manager Mr. Saurab Gupta, the penalty imposed on him under Section 112(ii) deserves to be set aside and accordingly set aside.

7. Also I find merit in the contention of the learned advocate for the appellants that the fine imposed in the present case is excessive. Consequently, taking note of the facts and circumstances of the case, it would be appropriate to reduce the fine to Rs.5.00 lakhs in the interest of justice. Accordingly, the redemption fine is reduced to Rs.5.00 lakhs.

8. In the result, the impugned order is modified to the extent of setting aside the penalties imposed under Section 112(ii) and Section 114AA of the Customs Act, 1962, on the appellant company. Penalty imposed on the individual is set aside. Redemption fine is reduced to Rs.5.00 lakhs. Appeal No.C/21691/2016 is partly allowed and appeal No.E/21693/2016 is allowed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

Raja….