CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 3

Customs Appeal No. 2765 of 2012

[Arising out of Order-in-Appeal No. 115/2012 dated 19.04.2012 passed by the Commissioner of Customs (Appeals), Cochin]

Mr. Haren Choksey
Krishna Villa, Santacruz (W)
Mumbai - 400 054 ....**Appellant(s)**

VERSUS

Commissioner of Customs, Cochin
Custom House, Willingdon Island,
Ernakulam.
Kerala - 682 009 ....**Respondent(s)**

WITH

Customs Appeal No. 2776 of 2012

[Arising out of Order-in-Appeal No. 116/2012 dated 19.04.2012 passed by the Commissioner of Customs (Appeals), Cochin]

Mr. Haren Choksey
Krishna Villa, Santacruz (W)
Mumbai - 400 054

........Appellant(s)

VERSUS

Commissioner of Customs, Cochin
Custom House, Willingdon Island,
Ernakulam.
Kerala-682 009 **.....Respondent(s)**

AND

Customs Appeal No. 2777 of 2012

[Arising out of Order-in-Appeal No. 117/2012 dated 19.04.2012 passed by the Commissioner of Customs (Appeals), Cochin]

Mr. Haren Choksey
Krishna Villa, Santacruz (W)
Mumbai-400 054 **.......Appellant(s)**

VERSUS

Commissioner of Customs, Cochin
Custom House, Willingdon Island
Ernakulam
Kerala-682 009 ....**Respondent(s)**

Appearance:

None appeared for the appellant
Shri K.A. Jathin, Deputy Commissioner (AR) for the Respondent

CORAM:

Hon'ble Pullela Nageswara Rao, Member (Technical)

Final Order Nos. 21040 - 21042 / 2025

Date of Hearing: 07.02.2025
Date of Decision: 18.07.2025

Per: Pullela Nageswara Rao

The above 3(three) appeals were filed by Mr. Haren Choksey against the Orders-in-Appeal No. 115, 116, 117/2012 all dated 19.04.2012.

2. The brief facts are the appellant was imposed with penalty in respect of import of cars, wherein it was alleged that the cars were sold in violation of the condition of import rendering it liable for confiscation under Section 111(o) of the Customs Act, 1962. A Penalty of Rs. 50,000/- in each case under Section 112 (b) of the Customs Act, 1962 was imposed on the appellant on the ground that the appellant is found involved in the transfer/sale of the vehicle subsequent to the import.

3. In the appeal memorandum the appellant contended that he is a mere broker and never concerned with the import of the vehicles.

4. The importer was given an opportunity to be heard on 21.09.2023, 20.10.2023, 06.06.2024, however, he did not attend the hearings nor sought for any adjournment. Therefore, it is felt that any further posting for hearing would not invoke any response from the appellant. Hence it is decided to dispose the appeals based on the material available on the records of the appeals.

5. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the Commissioner (Appeals).

6. Heard the learned Authorised Representative (AR) and perused the submissions of the appellant in the appeal memorandum.

7. I find that the investigation conducted into the import of these motor vehicles revealed that there is a misdeclaration with respect to the year of manufacture and the value. The appellant was a car broker who arranges or facilitates transfer/sale of the motor vehicle post import. Therefore, he would certainly have to be aware of the actual year of manufacture of the motor vehicle and its actual value to arrange / facilitate the sale of the motor vehicle, therefore I find that the appellant is concerned himself in the transfer and sale of the imported motor vehicles.

8. I find that in all the 3(three) appeals the appellant Mr. Haren Choksey was penalized with an amount of Rs. 50,000/- under section 112(b), Section 112 of the Customs Act, 1962 reads as under:-

> *"112. Penalty for improper importation of goods, etc.*
>
> *Any person,-*
>
> *(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
>
> *(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*
>
> *shall be liable,-*
>
> *(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees), whichever is the greater;*
>
> *(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher: PROVIDED that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty*

days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five percent of the penalty so determined.

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;"

9. After considering the facts and circumstances of the case and the provisions of section 112(b) of the Customs Act, 1962, I find that the appellant is liable for penalty under section 112(b) of the Customs Act, 1962. However, I am of the opinion that the amount of penalty imposed can be considered for reduction and hence, I modify the penalty imposed on the appellant in each of the impugned orders by reducing the penalty to Rs. 25,000/-(Rupees twenty five thousand only) under Section 112(b) of the Customs Act, 1962.

10. Accordingly, all the 3(three) appeals are disposed in the above terms.

(Order pronounced in Open Court on 18.07.2025)

(Pullela Nageswara Rao)
Member (Technical)

Pr/Gm