CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>BANGALORE</u>

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20950 of 2017

[Arising out of Order-in-Appeal No. 228/2016-17 dated 27.02.2017 passed by the Commissioner of Customs (Appeals), Cochin]

M/s. Homey Enterprises
Door No. CC40/3219, Ground Floor **Appellant(s)**
Broadway Lane
Mather Bazar
Ernakulam

VERSUS

Commissioner of Customs
Cochin **Respondent(s)**
Custom House, Willingdon Island
Cochin – 682 009

With

Customs Appeal No. 20970 of 2017

[Arising out of Order-in-Appeal No. 223/2016-17 dated 27.02.2017 passed by the Commissioner of Customs (Appeals), Cochin]

Chackochan P.C.
Flat No. 9A, Pulikottil House **Appellant(s)**
Park View Apartments
Market Road
Ernakulam – 682 009

VERSUS

Commissioner of Customs
Cochin
Custom House **Respondent(s)**
Cochin – 682 009

<u>APPEARANCE:</u>
Mr. Ricab Chand, Advocate for the Appellants
Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Respondent

CORAM: HON’BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order Nos. 22112-22113 /2025

DATE OF HEARING: 12.11.2025
DATE OF DECISION: 12.11.2025

PER: D.M. MISRA

These two appeals are filed against the respective Orders-in-Appeal passed by the Commissioner of Customs (Appeals), Cochin.

2. Briefly stated the facts of the case are that the appellant had filed Bill of Entry No. 8034140 dated 19.01.2015 for the clearance of 930000 pieces of Honey Lighter H-588 Refillable Electronic Lighter declaring its value @ USD 0.018. As the value declared by the importer was not in par with the contemporary imports of similar items, investigation was initiated by SIIB. Later, the office and residence premises were searched and statements were recorded during the course of investigation. On completion of investigation, show-cause notice was issued to the appellant alleging undervaluation of the imported goods and proposed to recover differential duty of Rs. 11,14,191/-; also proposed for confiscation of the goods seized and penalty under various provisions of the Customs Act, 1962. On adjudication, transaction value was rejected and differential duty on the enhanced value of Rs. 17,71,709/- confirmed with interest and equivalent penalty was imposed under Section 114A of the Customs Act, 1962. Penalty of Rs.1,00,000/- was imposed on the appellant-company under Section 112(a) of the Customs Act, 1962. Penalty of Rs. 1,00,000/- each was imposed on Shri Chackochan P.C. under Sections 112(a) and 114AA of the Customs Act, 1962. Aggrieved by the said order, they filed appeals before the learned Commissioner (Appeals), who in turn, rejected their appeals. Hence, the present appeals.

3. At the outset, the learned Advocate for the appellants has submitted that initially they were not provided with the copies of the statements and mahazar drawn at the premises while effecting seizure of the goods. Only on the direction from the Bench, they have received today copies of the statements and mahazar from the Department. He has submitted that statements of third party recorded during the course of investigation has been relied upon against the appellant in confirming the differential duty alleging undervaluation of the goods. He has submitted that even though specifically they have requested for cross-examination of the witnesses whose statements have been relied upon accepting contemporaneous imports at a higher value, copies of the statements were neither given nor cross-examination was allowed. It is his submission that therefore the order issued with enhanced value is in violation of principles of natural justice. Further he has submitted that they had not been given with the details of the contemporaneous imports which has been relied upon in the show-cause notice as well as impugned order in confirming the demand of differential duty. He has submitted that they have raised all the issues before the learned Commissioner (Appeals) but the said ground has not been discussed and the impugned order was passed which is cryptic and unreasoned one. He has further submitted that since they were not given sufficient opportunity to defend the allegations against them, the matter may be remanded to the authorities for adherence to the principles of natural justice.

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

5. Heard both sides and perused the records.

6. On going through the impugned orders, we find that the learned Commissioner (Appeals) without addressing the

grounds raised by the appellant simply upheld the order of the adjudicating authority by a cryptic and unreasoned order. Further, we find that the relied upon statements and mahazar etc. were not handed over to the appellant during the course of adjudication proceedings nor examination of witnesses whose statements have been relied upon in confirming the differential duty has been extended to the appellant. Under these circumstances, we constrain to observe that the principles of natural justice have been violated. Consequently, the impugned orders are set aside and the matter is remanded to the adjudicating authority to pass a fresh order after adhering to the principles of natural justice. All issues are kept open. The appeals are allowed by way of remand.

(Operative portion of the order was pronounced in
open court on conclusion of hearing)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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