CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20233 of 2021

(Arising out of Order-in-Appeal No.121/2020 dated 28.09.2020 passed by the Commissioner of Customs (Appeals), Bengaluru.)

M/s. Barani Trading
C/o Sri Shaju K, Proprietor
42/1, Radhika's Nest,
9th Street, Tatabad,
Coimbatore – 641 012.

Appellant(s)

VERSUS

The Commissioner of Customs
AIR India SATS Airfreight Terminal,
Kempegowda International Airport,
Devanahalli,
Bangalore – 560 300.

Respondent(s)

APPEARANCE:

Ms. Kavitha Judith Saldanha, Advocate for the Appellant.

Mr. Vikalp Jain, Superintendent, Authorised Representative for the Respondent.

CORAM:

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20996 / 2026

DATE OF HEARING: 22.07.2026
DATE OF DECISION: 22.07.2026

PER : R. BHAGYA DEVI

This appeal is being filed by one of the appellants i.e., M/s. Barani Trading against the impugned Order-in-Appeal No. 121/2020 dated 28.09.2020 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly the facts are that M/s. Bharti Trading Company imported pressure water pumps through Air Cargo Bangalore. On receipt of intelligence, investigations were carried on by the Directorate of Revenue Intelligence who intercepted the consignment covered under Bill of Entry No. 5089136 dated 29.04.2016 and on verification, it was found that there were 24 carton boxes of pumps and it was noticed that gold was concealed in 8 pumps out of 24 pumps where 120 numbers of yellow coloured metal pieces with marking "AI ETIHAD DUBAI UAE 10 TOLA 999.0" was found to be concealed among these pumps. The gold found was totally weighing 13,996.80 grams valued at Rs.4.25 crores along with 24 numbers of "ANLU Brand pressure washer pumps for house hold cleaning", which were used for concealing these gold biscuits. Accordingly, show-cause notice was issued for confiscating the same and for imposition of penalty. On further investigation, it was found that the Appellant M/s. Barani Trading had allowed M/s. Bharati Trading Company to use IE Code for payment on Rs.5,000/- per consignment; thus, violating the provisions of the Foreign Trade Policy, hence the appellant was held to be liable for penalty under Section 112 and Section 114AA of the Customs Act, 1962. On an appeal, the Commissioner (Appeals) upheld the penalty imposed by the original authority for violating the provisions of the Foreign Trade Policy. Aggrieved by this, the appellant is in appeal before this Tribunal.

3. The Learned Counsel for the appellant submits that the appellant is a regular importer of pressure water pumps at Coimbatore and there was no irregularity noticed when they had imported these pumps. It is submitted that he has nothing to do with the import business of Konari Brothers at Bangalore who imported through M/s. Bharati Trading Company. It is further submitted that at Coimbatore they had imported car washer pumps for Konari brothers based on family acquaintance and

good intention and as a temporary arrangement by lending their IEC, hence the alleged offence committed by M/s. Bharati Trading Company at Bangalore cannot be linked to the appellant and therefore, penalties imposed on the appellant cannot be sustained.

4. The Learned Authorised Representative (AR) for the Revenue reiterating the findings of the Commissioner (Appeal) submits that the appellant had violated the provisions of the Policy Circular No. 6 (RE-2013)/2009-2014 dated 16.09.2013 issued by Joint Director General of Foreign Trade wherein the circular clearly bars the appellant from lending their IEC to other importers. He also relies of the decision of this Tribunal in the case of K**.V. Shivaraj, Proprietor of M/s. SJ International Vs. Commissioner of Customs, Coimbatore: 2016 (6) TMI 810 - CESTAT Chennai**. Also, he submits that the appeal of **M/s. Bharati Trading Company** along with appeal of Mr. K. Naser was disposed of by this Bench vide **Final Order No.20976-20977/2023 dated 10.10.2023** wherein the penalty imposed under Section 114AA was reduced from Rs.10,00,000/- to Rs.5,00,000/-; while penalty imposed under Section 112 was upheld for the appellant M/s. Bharati Trading Company and the appeal filed by Mr. K. Naser was rejected, hence, the penalties imposed on the appellant in the instant case should be upheld.

5. Heard both sides. It is a fact that appellant had allowed the use of his IE code on payment of R.5,000/- per consignment as seen from the statement of Shri Shaju, Proprietor of the appellant (M/s. Barani Trading) recorded under Section 108 of the Customs Act 1962. As recorded by the original authority in the Order-in-Original, the statement was to the effect that on the request of Mr. Amjad Shibili Konari and Mr. Shamjad Konari (M/s. Bharati Trading Company), the appellant lent his IEC on payment of Rs.5,000/- for import of

pumps, 41 consignments were cleared where the customs duty payment was paid to the appellant through Shri Babu Nassar. Accordingly, I find that the appellant had violated the provisions of the Foreign Trade Policy with specific reference to the Policy Circular No. 6 (RE-2013)/2009-2014 dated 16.09.2013 which is reproduced below:

Policy Circular No. 6 (RE-2013)/2009-2014 Dated the 16th September, 2013

Subject: Use of Importer-exporter Code Number allotted to them by the importers/exporters

It has been brought to the notice of this Directorate that some importers/exporters are effecting imports/exports by using IECs issued to others which is a complete violation of provisions of Foreign Trade
Policy.

2. As per the Section 7 of The Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010 read along with Rule 12 of Foreign Trade (Regulation) Rules, 1993 every person should make import or export only with Importer-exporter Code Number allotted to him. This has been further amplified by Para 2.9.2 of Handbook of Procedures, Vol.1, 2009-14 which states that an IEC number allotted to an applicant is valid for all its branches / divisions/units/factories. Therefore, the IEC Number cannot be used by anyone other the IEC holder himself/herself.

3. In view of the above, use of IEC by the person other than IEC holder himself is a violation of the above provisions and would attract action under Section 8 and 11 of The Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010, except in case importers or exporters are exempted from obtaining IEC and who use permanent (common) IEC Numbers under Para 2.8 of Handbook of Procedure, Vol.1, 2009-14.

4. Therefore, importers/exporters as well as all other stake holders are cautioned to comply with the provisions of FT(DR) Act and Rules made thereunder while using their IEC Number. Non-

> compliance/ violation of these provisions would attract action in the form of suspension/cancellation of IEC or imposition of penalty, as appropriate, under the relevant provisions of FT(DR) Act and Rules.

6. Admittedly, the appellant having lent his IEC, penalty was liable to be imposed under the various provisions of the Customs Act, 1962. From the records, I find that the Bill of Entry filed by M/s. Bharati Trading Company having IE Code No. 0714031461 while the IEC Code in the name of M/s. Barani Trading (the appellant) is 3203016877. Hence, I find that the goods that were imported at Bangalore where gold was smuggled along with the pressure water pumps was filed in the name of M/s. Bharati Trading Company with their own IEC Code. However, on further investigations, it was revealed that earlier M/s. Bharati Trading Company was using the IEC Code lent by the appellant M/s. Barani Trading at Coimbatore for import of the same water pressure pumps. Since, lending of IEC is a violation of the provisions of Foreign Trade Policy, there is no doubt that the appellant is liable for penalty. But taking into consideration that the offence committed by M/s. Bharati Trading Company at Bangalore was not linked to the imports made at Coimbatore, the penalties imposed seem to be not commensurate to the offence committed. Accordingly, the penalty imposed under Section 114AA is set aside and the penalty imposed under Section 112 is reduced to Rs.2,00,000/- (Rupees Two Lakh Only).

Appeal is partially allowed.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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