CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20478 of 2021

(Arising out of Order-in-Appeal No.14 & 15/2020 dated 23.01.2020 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. SVS Corporation
B-3, Guru Plaza,
Near KSRTC Bus Stand, Bejai,
Mangalore – 575 004.

Appellant(s)

VERSUS

The Commissioner of Customs
New Custom House, Panambur,
Mangalore – 575 010.

Respondent(s)

APPEARANCE:

Shri Pradyumna G.H, Advocate for the Appellant

Shri Vikalp Jain, Superintendent, Authorised Representative for the Respondent

CORAM:

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

Final Order No. 21001 / 2026

DATE OF HEARING: 23.07.2026
DATE OF DECISION: 23.07.2026

PER : R. BHAGYA DEVI

Briefly the facts are that the appellant M/s. SVS Corporation, Mangalore had filed bill of entry No. 9053672 dated 29.11.2018 for import of computer and mobile accessories imported from China. On 1st appraisement, it was noticed that used laser jet printers of HP brand were imported but not declared in the invoice and packing list. In addition, power banks and HDMI cables were also found in the consignment without any declaration in the invoice or the packing list. Since used printers require permission from Ministry of Electronics and Information Technology and permission of Directorate General of Foreign Trade (DGFT), the offending goods were liable for confiscation on account of noncompliance and misdeclaration, the original authority held that the impugned goods were liable for confiscation and accordingly, it was allowed to be redeemed on payment of redemption fine, duty along with interest and also imposed penalty under Section 112(a)(v), Section 114A and 114AA of the Customs Act, 1962. The Commissioner (Appeals) upheld the same. Aggrieved by this order, the appellant is in appeal before this Bench.

2. The Learned Counsel submits that on 1st appraisement, it was noticed that used laser jet printer of HP brand and power banks and HDMI cables were found in the consignment without being declared in the invoice and packing list. It is submitted that the value was increased from Rs.28,57,229/- to Rs.31,47,069/- enhancing the value of the goods to the extent of Rs.2,89,840/- which is without any corroborative evidence.

2.1 Further, it is submitted that the imported goods viz., second hand HP Laser Jet Printers, Power Banks, HDMI cables etc., totally valued at Rs.12,88,981/-were confiscated and allowed for re-export on payment of redemption fine, which according to the appellant is not justified since the redemption fine can be imposed only if the importer is allowed to redeem the goods and not for re-export. Relies on the following judgments:

- **HBL Power Systems Ltd. vs. Commissioner of Customs, Visakhapatnam: 2018 (362) ELT 856 (Tri.- Hyd.)** which was affirmed by Hon'ble High Court of Telangana and Andhra Pradesh reported at **2019 (367) ELT 154 (AP)**
- **Skylark Office Machine vs. Commissioner of Customs, Bangalore: 2024 (20) CENTAX 244 (Tri.-Bang.)**

2.3 It is also submitted that the goods listed at Table-1A [paragraph No.14.4.1 of the Order-in-Original dated 14.06.2019] were imposed with redemption fine and penalty along with the taxes and goods listed at Table-2A [paragraph No.14.4.1 of the Order-in-Original dated 14.06.2019] were cleared as there was no offence recorded on these goods. With regard to penalty, it is submitted that penalty under Section 114AA is to be imposed only in cases of involving fraudulent exports; hence, the same cannot be sustained.

3. The learned Authorised Representative (AR) on behalf of the Revenue submits that since there was misdeclaration of the goods and the goods were restricted, imposition of redemption fine and penalties were justified; hence, the impugned order needs to be sustained.

4. Heard both sides. The appellant in this case is aggrieved by imposition of redemption fine and penalty on the goods that were allowed to be reexported. So, the question remains whether the Revenue was justified in imposing redemption fine on the goods that were allowed to be reexported and also, whether they are justified in imposing penalty under Section 114AA.

5. Admittedly, I find that there was misdeclaration of goods; hence, redetermination of value was justified. I find that as per paragraph 36.1 and 36.2 of the Corrigendum dated 19.06.2019 to Order-in-Original dated 14.06.2019, it is held that goods valued at Rs.24,58,088/- are not liable for confiscation and the other goods valued at Rs.12,76,280/- were prohibited goods, which cannot be allowed for clearance for home consumption and hence, allowed only for reexport on payment of Rs.3,00,000/- and imposed penalty of Rs. 2,25,000/- under Section 112(a)(i) of the Customs Act, 1962.

6. I find that, in similar set of facts, in the case of **HBL Power Systems Ltd.** (supra) which was affirmed by Hon'ble High Court of Telangana and Andhra Pradesh, the Tribunal had held as follows:

> "**11.** The scope of Section 125 of the Act is limited by the words in which it is framed and it is not open to the adjudicating authority or the Tribunal (who are creatures of the statute) to stretch, modify or restrict the scope of this Section; they are bound by it. Hon'ble Supreme Court and High Courts can and do examine the validity of the laws and

subordinate legislations and pass judgments annulling or modifying them by neither the officers nor the Tribunal, as creations of the statute cannot do so. This position has been explained clearly by the Hon'ble Supreme Court in *UOI* v. *Kirloskar Pneumatics Company* 1996 (84) E.L.T. 401 (S.C.) in which it was held as under :

> "According to these sub-sections, a claim for refund or an order of refund can be made only in accordance with the provisions of Section 27 which inter alia includes the period of limitation mentioned therein. Mr. Hidayatullah submitted that the period of limitation prescribed by Section 27 does not apply either to a suit filed by the importer or to a writ petition filed by him and that in such cases the period of limitation would be three years. Learned Counsel refers to certain decisions of this Court to that effect. We shall assume for the purposes of this appeal that it is so, notwithstanding the fact that the said question is now pending before a larger Constitution Bench of nine Judges along with the issue relating to unjust enrichment. *Yet the question is whether it is permissible for the High Court to direct the authorities under the Act to act contrary to the aforesaid statutory provision. We do not think it is, even while acting under Article 226 of the Constitution. The power conferred by Article 226/227 is designed to effectuate the law, to enforce the Rule of law and to ensure that the several authorities and organs of the State Act in accordance with law. It cannot be invoked for directing the authorities to act contrary to law. In particular, the Customs authorities, who are the creatures of the Customs Act, cannot be directed to ignore or act contrary to Section 27, whether before or after amendment. May be the High Court or a Civil Court is not bound by the said provisions but the authorities under the Act are. Nor can there be any question of the High Court clothing the authorities with its power under Article 226 or the power of a Civil Court. No such delegation or conferment can ever be conceived.* We are, therefore, of the opinion that the direction contained in Clause (3) of the impugned order is unsustainable in law."

12. We also find that not only Section 125 but no Section of the Customs Act, 1962 gives any officer the power to compel anyone to import or export or re-export. This Section also does not give the Adjudicating Authority the right to give a conditional redemption saying

> "you can redeem only if you agree to re-export". In case of prohibited goods the adjudicating authority has only two options :
> (a) to allow redemption on payment of fine; or
> (b) to not allow redemption.
>
> **13.** In view of the above, we find that the condition in the Order-in-Original that the goods should be re-exported after redemption is liable to be set aside and we do so."

7. In view of the above, I do not find any justification in imposition of redemption on the goods to be reexported; hence, the same is set aside. However, misdeclaration having been admitted, the penalty under Section 112(a)(i) of the Customs Act, 1962 is justified. However, taking into consideration the value of goods to be Rs.12,76,280/- and the goods not being allowed to be redeemed, the penalty imposed is reduced to Rs.1,00,000/-. The provision of Section 114AA is meant for imposition of penalty in all cases where false or incorrect information is provided in the transaction of any business; hence, the claim of the appellant that it should be imposed only in the cases of fraudulent exports is totally misplaced and cannot be accepted. Therefore, penalty imposed under Section 114AA is justified. Accordingly, the impugned order is modified only to the extent of setting aside the redemption fine of Rs.3,00,000/- and reduction of penalty under Section 112(a)(i) to Rs.1,00,000/- (Rupees One 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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