CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20341 of 2023

(Arising out of Order-in-Appeal No.25/2023 dated 28.02.2023 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. G. Narayan & Co.
V.G.S. Building, 1st Floor,
Near Shirdei Sai Baba Mandir,
Lady Hill,
Mangalore – 575 006.

Appellant(s)

VERSUS

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

Respondent(s)

APPEARANCE:

Mr. Pradhyumna G.H, Advocate for the Appellant

Ms. Deepthi K, Superintendent, Authorised Representative for the Respondent

CORAM:

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

Final Order No. 21030 /2026

DATE OF HEARING: 07.09.2026
DATE OF DECISION: 07.09.2026

PER : R. BHAGYA DEVI

Briefly the facts are that M/s. 6th Gear Autohub Pvt. Ltd. Bangalore imported Seven (7) Nos. of MB651 Engines declaring the value as Rs.3,49,447.13/-. However, the department doubting the value declared, queries were raised by the assessing authority and notice was issued for enhancing the value which was accepted. On adjudication, the value was redetermined at Rs.63,60,316.714/- and duty of Rs.31,24,188/- was confirmed along with penalty on the importer and the appellant M/s. G Narayana & Co., Mangaluru, the appellant who is a Customs Brokers in the present appeal.

2. The Learned Counsel submits that the appellant is a customs broker and there is no evidence to suggest that the customs broker knowingly abated the importer in undervaluing the goods. It is also submitted that in the absence of any incriminating documents and *mala fide* intention of the appellant, penalty imposed under Section 112(a) of the Customs Act, 1962 cannot be sustained. Relies on the decisions of the Tribunal in the case of **Leadking Sea Air Forwarders Pvt. Ltd. vs. Commissioner of Customs: 2017 (10) TMI 764 - CESTAT Bangalore** and **Rajappa V vs. Commissioner of Customs** vide **Final Order No. 20583/2026 dated 11.03.2026**. It is further submitted that separate proceedings were initiated by the department under Customs House Agents Licensing Regulations (CBLR) and the Commissioner vide Order-in-Original dated 16.06.2023 imposed a penalty of Rs.50,000/- under Regulation 18 of the CBLR and the same was accepted and paid by the appellant. Referring to the proceedings, it is submitted that since the appellant was requested for the first check for the said imported goods, the *bona fide* intention of the appellant cannot be doubted, hence request for setting aside the penalty.

3. The learned Authorised Representative (AR) submits that the imported goods were undervalued to the extent of Rs.60/- lakhs and redetermination of duty has not been challenged by the importer. Since the appellant being a customs broker having not acted diligently, penalty imposed is justified.

4. Heard both sides. From the facts of the case, it is noticed that the appellant on behalf of the importer had declared less than 10% of the actual value. The fact that the imported products were premium brand engines, such low value declared by the importer/appellant was obvious that they had knowingly undervalued the goods, hence, penalty is justified.

4.1. The appellant has placed on record the Order-in-Original dated 16.06.2023 wherein the Commissioner while considering the CBL Regulations had noted the findings of the Inquiry Officer which reads as follows:

> "Findings of the Inquiry Officer - The Customs Brokers viz., M/s. G Narayana & Co., denied the said charges stating that they have properly advised their client to comply with the provisions of the Act in the matter of filing bill of entry and also sought first check of the said import consignment. The said Custom Broker submitted the copy of the check list which shows that the bill of entry in question was marked for first check. From the copy of check list submitted by the Custom Broker at the time of personal hearing, it is evident that the Custom Broker had requested for first check for the said imported goods before assessment. Thus it can be inferred that issue has been brought to department's notice. Hence, it can be concluded that the Custom Broker cannot be held wholly responsible for undervaluation".

4.2. Taking into consideration the above observations of the Inquiry Officer and also taking into account the fact that the Commissioner had imposed a penalty of Rs.50,000/- which has been admitted and paid by the appellant and also considering the fact the duty liability was Rs.31,24,188/-, I find that the penalty of Rs.15,00,000/- imposed on the Customs Broker is very exorbitant. Moreover, it is on record that the appellant had suggested for first check which proves his *bona fide* and that they had acted diligently. Therefore, the penalty imposed under Section 112(a) of the Customs Act, 1962, is reduced to Rs.1,00,000/- (Rupees 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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