

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60365 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1637-1638-18 dated 10.09.2018 passed by the Commissioner (Appeals), Customs-C, Ludhiana]

M/s B.E. Office Automation Products Pvt. Ltd.Appellant

10-A, Gangay Industrial Area Phase-3J, Jammu,
Jammu & Kashmir-180010

VERSUS

Commissioner of Customs-LudhianaRespondent

Custom House, G.T. Road, Sahnewal, Ludhiana,
Punjab-141120

WITH

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APPEARANCE:

Shri B.L. Yadav, Consultant for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61765/2025

DATE OF HEARING: 16.12.2025
DATE OF DECISION: 17.12 .2025

P.ANJANI KUMAR :

The appellants, M/s B.R. Office Automation products pvt. Ltd. have imported "old and used digital multifunctioning devices" with standard accessories and attachments and filed two bills of entry dated 19.04.2017 and 27.11.2017. Revenue entertained an opinion that the import of second hand photocopiers was in violation of provisions of Para 2.31 of Foreign Trade Policy, 2015- 2020 and that they are liable for confiscation under Section 111(b) and (l) of Customs Act, 1962 and the importer is liable for penalty under Section 112 ibid. A Personal Hearing was held on 27.12.2017 and 01.01.2018; The Joint Commissioner of Customs passed two Orders-in-Original both dated 05.01.2018 holding the goods liable for confiscation, while giving an option to redeem the goods on payment of redemption fine equivalent to the re-assessed value of the seized goods while demanding duty under the reassessed value along with penalty of Rs. 20,000 each. The details are as follows:

Appeal No.	C/60366/2019	C/60366/2019
Bill of Entry No.	9372716/19.04.2017	4027776/27.11.2017
Re-determined Value	16,97,870	17,97,400
Redemption fine imposed	16,97,870	17,97,400
Penalty imposed	20,000	20,000
OIO No. and date	98/17-18	97/17-18

2. On an appeal referred by the appellants, Commissioner (Appeals) vide the impugned order dated 10.09.2018 reducing the redemption

fine to 50% of the redetermined value of the goods and according other findings.

3. Shri B.L. Yadav, Learned Consultant submits that the adjudicating authority has been disproportionate in imposing the redemption fine and penalty; he imposed penalty equivalent to the redetermined value i.e. @100%; the first appellate authority though reduced the redemption fine imposed to 50%, which was also disproportionate. He submits that the Courts and Tribunal have been consistently holding that redemption fine should be imposed so as to offset the profit that could have accrued to the importer and that penalty should be commensurate to the offence. He submits that this Bench in the case of the appellants themselves 2019 (11) T.M.I. 1091-CESTAT, Chd., have held that redemption fine and penalty should be 10% and 5% respectively.

- Mansi Implex, 2011(270)E.L.T. 631 (S.C.)
- S. Krishna & Co., 2015 (321) E.L.T. 530 (Tri.- Kolkata)
- OMEX International, 2015(328) E.L.T. 579 (Tri.- Delhi)
- Marque Enterprises, 2015 (329) E.L.T. 307 (Tri. Del.)
- Bedy Associates, 2017 (349) E.L.T. 289 (Tri. Delhi)
- Champion Photostat Industrial Corporation, 2021 (376) E.L.T. 394 (Tri. Del.)
- Mahesh Steel Traders, 2025 (8) TMI 1663-CESTAT Chandigarh
- JK Industrial Corporation, 2018 (9) TMI 937, CESTAT Chandigarh
- MG Copiers, 2023 (8) TMI 563- CESTAT Bangalore
- JJ Graphics, 2023 (8) TMI 566, CESTAT Bangalore
- Accord Digitech, 2020(12) TMI 647, CESTAT Bangalore
- B.E. Office Automation Products Pvt. Ltd., 2019 (11) TMI 1091-CESTAT Chandigarh
- B.E. Office Automation Products Pvt. Ltd., 2022 (2)TMI 367, CESTAT Chandigarh

4. Learned Authorized Representative reiterates the findings of the impugned orders.

5. Heard both sides and perused the records of the case. We find that the courts and the Tribunal have been consistently holding that redemption fine should be in a way to offset the profit if any that could have accrued to the appellants for the contraventions. We also find that Courts and Tribunal have been consistently holding that imposition of redemption fine and penalty though discretionary at the hands of the adjudicating authority, the same cannot be disproportionate and unjustified in the facts and circumstance of the case. We find that Hon'ble Kerala High Court in the case of *Office Devices, 2009 (240) ELT 336* held that:

It is settled that power of discretion by the authority is to be exercised based on well founded principles and should not be done in a mechanical way. We have already perused the order of the Tribunal and found that the Tribunal had given its own reasons for supporting as to why the redemption fine is to be reduced. That the rate at which the redemption fine is imposed in similar cases has been taken note of only for the limited purpose of maintaining consistency. Had it been a case where materials were placed by the appellant to draw a distinction from the rest of the cases, certainly, the Tribunal would have and ought to have considered those additional materials in arriving as to whether the rate imposed should be the same or whether any variation has to be made in the factual situation. In so far as no such attempt is made by the appellant before the Tribunal, we cannot find that this is dissimilar to the other cases. Any authority exercising the power is also bound by law of precedence and it is necessary to maintain consistency as otherwise it will be characterized as discriminatory. Therefore, this is not a case where the rate is applied uniformly in a mechanical way; but similar rate of redemption fine was adopted for parity of reasons.

6. In view of the above, we find that there is merit in the argument of the appellant. Accordingly, we are of the concerned opinion that the redemption fine should be limited to about 10% of the value of the goods. Accordingly, we reduce the redemption fine imposed to Rs. 1,60,000 in respect of Appeal No. C/60366/2019 and to Rs. 1,70,000 in respect of appeal no. C/60366/2019. Accordingly, the appeals are partly allowed by reducing redemption fine to the above extent. The impugned orders are upheld as far as duty demand and penalty are concerned.

(Order pronounced in the open court on 17.12..2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)