

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT No. III

**i. Customs Appeal No. 42314 of 2015**

(Arising out of Order-in-Original No. 41214/2015 dated 31.08.2015 passed by Commissioner of Customs, No. 60 Rajaji Salai, Custom House, Chennai – 600 001)

**M/s. Ragavan Paper Process**

No. 25A, Muthiya Street,  
Old Washermanpet,  
Chennai – 600 021.

**...Appellant**

**Versus**

**Commissioner of Customs**

Chennai II Commissionerate,  
No. 60, Custom House,  
Rajaji Salai,  
Chennai – 600 001.

**...Respondent**

With

**ii.** Customs Appeal No. 42315/2015 (M/s. Sri Jagadeesh Paper Cutting Works)

**iii.** Customs Appeal No. 42316/2015 (M/s. Muthukrishnan Agencies)

**APPEARANCE:**

For the Appellants : Mr. Janakiraman, Advocate

For the Respondent : Ms. Rajini Menon, Authorized Representative

**CORAM:**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**DATE OF HEARING : 01.09.2025**

**DATE OF DECISION : 25.11.2025**

**FINAL ORDER Nos. 41356-41358 / 2025**

**Order:-**

The appeals in C/42314/2015, C/42315/2015, and C/42316/2015 have been filed by the Appellants, viz., M/s. Raghavan Paper Process, M/s. Jagdeesh Paper Cutting Works, and M/s. Muthukrishnan Agencies, respectively. Since

all three appeals arise out of a common Order-in- Original No. 42314/2015 dated 31.08.2015 and involve the identical issue relating to the imposition of a Penalty of Rs. 10,00,000/- on each of the Appellants under Section 112(b) of the Customs Act, 1962, they are being taken up together for disposal by this common order.

2. Brief facts of these appeals are that M/s. Censor Tamil Weekly Magazine, Chennai (hereinafter referred to as "the importer") is the main Noticee against whom the show cause notice was issued. The importer is stated to have accepted the allegations proposed therein and has not preferred any appeal before this Tribunal. The importer had purchased a consignment of LWC paper in rolls up to 70 GSM on a High Sea Sale basis from High Sea Sellers, which also included the Appellants. Consequently, the importer, being the High Sea Sales buyer, filed a Bill of Entry for clearance of the goods, declaring the same as Light Weight Coated (LWC) paper rolls up to 70 GSM. The importer claimed exemption from Basic Customs Duty under Customs Notification No. 12/2012 (Sl. No. 267) and from Additional Duty under Central Excise Notification No. 12/2012 (Sl. No. 168) on the strength of a certificate issued by the Office of the Registrar of Newspapers for India, Ministry of Information and

Broadcasting, Government of India, New Delhi. The importer also claimed to be an actual user for printing the Tamil weekly magazine "CENSOR", as the exemption under the aforesaid notifications is available to LWC paper weighing up to 70 GSM if imported by an actual user for printing of magazines, in terms of Sl. Nos. 267 and 168 of the respective notifications. On assessment, it appears that duty exemptions claimed by the importer was extended.

3. However, upon examination of the consignments, it appeared that the importer had mis-declared the description of the goods in the Bill of Entry. Further, it was observed that the importer had been procuring substantial quantities of LWC paper on a High Sea Sale basis from various importers, including the Appellants, since 2012, while availing exemption from customs duty. It was further revealed that the importer had neither published nor printed the Censor magazine using the imported LWC paper as mandated under the said Notification. Instead, the importer had diverted and sold the imported LWC paper to the premises of the High Sea Sale sellers and brokers at higher prices. In view of the foregoing, it was alleged that the importer had colluded with the High Sea Sale sellers in misusing the exemption and thereby evading customs duty. It was further alleged that the

Appellants, being the High Sea Sale sellers from whom the importer had purchased the goods, had subsequently taken possession of the duty-evaded goods after their clearance by offloading the same in their godowns. Accordingly, it was alleged that the Appellants had actively colluded with the importer in the evasion of customs duty amounting to Rs. 80.14 Lakhs in respect of 18 Bills of Entry pertaining to goods sold on a High Sea Sale basis.

4. A Show Cause Notice bearing F. No. S.Misc.245/2013-SIIB dated 12.12.2014 was issued proposing to deny the benefit of exemption availed by the importer and to demand differential duty amounting to Rs. 99,68,171/- under Section 28(4) of the Customs Act, 1962, along with interest thereon under Section 28AA of the said Act. The notice further proposed confiscation of the imported goods under Sections 111(m) and 111(0) of the Customs Act, 1962, and imposition of penalty on the importer under Section 114A as well as personal penalty on its Proprietor under Section 114AA of the Customs Act, 1962. In addition to the above, the notice also proposed imposition of penalty on the High Sea Sale sellers, being the Appellants in the present case, under Section 112(b) of the Customs Act, 1962, on the allegation that the Appellants had abetted and facilitated the

importer in misusing the exemption by diverting the imported goods to their own premises, which allegedly resulted in substantial revenue loss to the exchequer.

5. The Appellants had filed their reply before the Adjudicating Authority stating as follows: -

- i. that for imposing personal penalty under Section 112(b) of the Customs Act, 1962, it is essential that the person concerned has acquired possession of, or is in any manner involved in carrying, removing, depositing, harboring, keeping, concealing, or selling any goods, with knowledge or reason to believe that such goods are liable to confiscation under the provisions of the Act. In the present case, the Appellants had taken temporary possession of the imported goods only in the capacity of a job worker, and had stored the same at their premises subsequent to clearance of the goods by the importer. There was no act of diversion as alleged, and hence, the Appellants cannot be held responsible for or connected with the alleged duty evasion by the importer.
- ii. That the provisions of Section 112(b) of the Customs Act, 1962 cannot be invoked against the Appellants in the present case, as the goods in question had already been

sold to the importer on a High Sea Sale basis prior to their clearance for home consumption. Once the sale was effected, the Appellants ceased to have any ownership, control, or involvement with the goods. Consequently, the Appellants had no knowledge or reason to believe about the importer's intention to claim exemption on the imported goods or about any alleged diversion thereof. Hence, invocation of Section 112(b) against the Appellants is wholly unsustainable in law and on facts.

iii. It is submitted that while the notice makes certain allegations of collusion between the Appellants and the importer in respect of the alleged diversion of the imported goods, it is conspicuously silent on any cogent evidence to substantiate such allegations. For invoking penalty under Section 112(b) of the Customs Act, 1962, it is a prerequisite to establish that the person concerned had knowledge or had reason to believe that the goods acquired or dealt with by him were liable for confiscation under Section 111 of the Act. Merely because the Appellants had taken temporary possession of the imported goods after clearance for job work cannot, by itself, lead to the conclusion that they had any role in the alleged duty evasion or diversion. The act of storing, keeping, or handling the said goods was solely in the

course of the Appellants' lawful activities as job workers, undertaken for consideration. In the absence of any evidence of knowledge or mala fide intention on the part of the Appellants, the essential ingredients required for invoking Section 112(b) are not satisfied, and therefore, the penalty proposed is not sustainable.

- iv. That a mere claim to ownership of goods by a person at a point of time seizure would not ipso-facto make them guilty of charge either under Sec. 112(a) or under (b) of the Customs Act, 1962.
- v. That there is absolutely no evidence that had been brought on record by the revenue to prove that the Appellants was aware or had reasons to believe that the goods sold on High Sea Sales basis and unloaded at their premises for Job Work purpose, would be liable to be confiscated under Sec. 111 of the Customs Act, 1962 post clearance. In the absence of any such knowledge as required under Section 112(b), Penalty not imposable.
- vi. That none of the co-noticee's had given any statement to the effect to prove that the Appellants in any manner had knowledge as to mis- declaration of goods or clandestine diversion. The Department had not discharged any proof to establish that the essential ingredients of Sec. 112(b) of the Customs Act, 1962 is invocable to impose penalty

under the same and therefore the allegations proposed against the Appellants herein are prima facie made out against the Appellants.

vii. That at the time of allowing somebody to store the goods at their godown, for the purpose of their satisfaction, verification of the legal import of the goods can be done on basis of available document, as it was done on verifying and accepting the of Bill of Entry filed with the department. However, it cannot be expected that a Job Worker should verify the goods with reference to correctness of the declaration and other details in relation to the imported goods and hence Appellants cannot be inflicted with penalty.

viii. That the Appellants is in no way a gainer of the alleged misdemeanor of importer besides the fact that he had no knowledge what so ever on either on the mis- declaration at the time of import or clandestine diversion thereof by the importer. That there exists no malafide intention on the part of the Appellants. Penalty not imposable.

ix. Further, following documents were produced by the Appellants before the lower authority to show that other than by way of effecting high seas sales, the Appellants had done only conversion work for which they had received job charges: -

- a. Details of High Sea sales for the year 2012-13 and 2013-14 effected in favour of the Importer.
- b. Letter dated 07.07.2012 from importer issued to the Appellants requesting for storage of material at the premises of the Appellants for conversion.
- c. Copies of 2 triplicate copies of Delivery note evidencing the return of goods to importer after carrying out Job Work.
- d. Copy of 1 labour invoice and 3 receipt issued by the Appellants towards the job work charges issued on Importer by the Appellants for the job work carried on the goods sent to their premises.

6. After due process of law, the Adjudicating Authority *vide* para 44 of the impugned order has confirmed penalty of Rs.10,00,000/- on each of the Appellants which was proposed in the SCN under Section 112(b) of the Customs Act, by observing that the Appellants had colluded with the importer in evading customs duty to the tune of Rs.80.14 Lakhs in respect of 18 Bills of Entry which were sold by them on High Sea Seller. Aggrieved by such order, the Appellants are now before the Tribunal.

7. The Ld. Counsel Mr. Janakiraman representing all the Appellants appeared and argued for the Appellants. The Ld. Advocate submitted that the main charge against the Appellants is that the Appellants had colluded with the importer in evading customs duty by facilitating the Importer to obtain the benefit of exemption under Customs Notification No.12/2002 and Central Excise Notification No.12/2012 on the LCC Paper rolls imported by the Importer on High Sea Sale Seller, being the Appellants in the present case. Further, it is also the charge against the Appellants that the imported goods were unloaded at the premises of the Appellants, instead of importer, with an intent to divert the goods.

8. The Ld. Counsel submitted that the Adjudicating Authority had imposed personal penalty on the Appellants, when the SCN had not pointed out any wrongdoing on the part of the Appellant herein as High Sea seller. The adjudicating authority failed to consider that the notice had not alleged that the Appellants had knowledge or any reason to believe that the goods in dispute would be liable to confiscation for any reason. The Adjudicating Authority ought to have seen whether the notice had charged the Appellants with any of the elements of Section 112(b) for imposition of penalty. The adjudicating authority has proceeded on the

basis that such element is present in the case on hand, when neither the Appellants themselves, nor the importer or any other person had implicated the Appellants in the commission of the offence by the importer in relation to the goods imported availing the benefit of exemption under Notifications mentioned *supra*.

9. The Ld. Counsel submitted that for imposition of penalty under Section 112 (b) of the Customs Act, 1962, there should be sufficient ground to establish that the Appellants had knowledge or had reasons to believe that the goods sold by them on high sea sales to the importer would be liable to confiscation. Further, when notice also is silent in establishing the fact that Appellants had knowledge of the intention the Importer was holding which is to evade duty, the impugned order confirming penalty under Section 112(b) is not justified.

10. He submitted that Appellants had received the goods cleared by the importer after import clearance for storage and carrying out necessary process of cutting on job work basis as per the instruction of the importer. Mere temporary possession or storing of goods after import

clearance for carrying out job work, cannot be the basis for concluding the Appellants had alleged commission of offence by the importer. When, High Sea Sale effected between Appellants and importer was never been questioned as fake and when Appellants had no reasons to believe that the goods dealt by him after import clearance would be liable to confiscation, imposition of penalty under Section 112(b) of the Customs Act, 1962 is legally not tenable. In support to his claim, he relied on *Kays International vs Commissioner of Customs* reported in 2000 (115) ELT 413 (Tri.-Delhi). The Delivery notes were produced before the adjudicating authority evidencing the return of goods after indented process to the importer. In case of any doubt in relation to the documents, the Adjudicating Authority ought to have called for other documents and verified authenticity of the claim. The impugned order has incorrectly concluded the Appellants had colluded with importer based on assumptions and presumptions and not supported by any evidence. Hence, penalty not imposable. In this context, the Ld. Counsel placed reliance in the case of *Associated Plastics and Rayans v. CC, Vapi* [2007 (210) ELT 524 (Tri-Ahmd.)]. He further relied on few more case laws to show that when there is no reason for construing any omission or commission on the part of the Appellant, penalty under section 112(b) is not imposable.

11. The Ld. Counsel further submitted a written submission making very similar submissions that were part of the grounds of appeal and also on a specific query raised by this Tribunal on 01.09.2025, he had submitted their submissions dated 09.09.2025 with sample copies of delivery challans, ledger account, etc.

12. In view of the above, the Ld. Counsel prayed that the appeals may be allowed.

13. The Ld. Authorized Representative Ms. Rajini Menon, appeared and argued on behalf of the Department. The Ld. Authorized Representative reiterated the findings and grounds relied upon in the impugned order for confirmation of the demand and supported the reasoning contained therein. It was further prayed that the appeals filed by the Appellants be dismissed as devoid of merit.

14. Heard both sides and carefully considered the submissions, appeal records and the cases cited therein.

15. As the present appeal has been preferred by the Appellants, who are the High Sea Sales Sellers, against whom penalty under Section 112(b) alone was proposed in the Show Cause Notice and confirmed in the impugned order referred to above, and since no appeal has been filed by the importer, as confirmed by the Appellants, the present proceedings are therefore confined to the issue pertaining to the Appellants alone. It is accordingly observed that the findings against the importer stand concluded, as the importer has accepted the charges framed against them and it appears, the importer has chosen not to come in appeal before this forum.

16. The Appellants had filed the present appeals challenging the imposition of penalty under Section 112(b) of the Customs Act, 1962. Section 112 is extracted below for ease of reference: -

***"Section 112. Penalty for improper importation of goods, etc.***

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*
  - (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding*

- the value of the goods or five thousand rupees, whichever is the greater;*
- (ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;*
  - (c) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;*
  - (d) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;*
  - (e) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest."*

17. On a careful reading of the provision, it is very clear that penalty under Section 112(b) is imposable only when positive knowledge or *mens rea* is clearly established to show that any person dealing with the goods "*knows or has reason to believe*" that the goods in dispute are liable to confiscation under Section 111. However, it is seen that the department had not produced any evidence on record to show that the Appellants either as High Sea Sale Sellers or as Job worker was aware of the fraud committed by importer or at any point colluded with the importer to evade duty or to claim undue benefit under the Customs and Central Excise Notification referred *supra*. Further, it is seen the High Sea

Sale Sellers (Appellants), had also been engaged as Job Workers for which the imported goods had been sent to the premises of the Appellants from the Customs area and been sent back to importer on completion of the process of cutting. In support of the same, the Appellants had produced sample copies of delivery challan and other documents which were presented before the Adjudicating Authority also. However, the Adjudicating Authority had not arrived at any decision that the documents produced were faulty/deficient but had given only finding to the effect saying that it is an afterthought. It appears that the facts indicate that the appellants are involved in selling paper of varieties to purchases and not only to the owner of 'Censor' Magazine. Evidence has been produced by the appellants that the importer has moved the importer paper to the appellants for conversion and the charges were collected for the job work.

18. In view of the above facts, it is seen that the Appellants cannot be expected to know in advance as to Importer's fraudulent intention when effecting the High Sea Sale. As such, the imposition of penalties under Section 112 (b) cannot be justified in the absence of any evidence to show that the Appellants had aided and abetted the fraud

committed by the importer. In support, reliance is placed in the decisions of the following case laws: -

i. *Panjrath Road Carriers v. CC, Ludhiana* [2018 (359) E.L.T. 408 (Tri. - Chan.)]

*"5. The present appeals stand filed by the transporters challenging the imposition of penalties upon them. However, it is seen that the said imposition is only a mechanical imposition inasmuch as, there is no evidence on record to show that the transporters were aware of the fraud if any, committed by importers. They have been engaged to transport the imported goods from the Customs area to the premises of original importers who sold their goods. The transporters cannot be expected to know as to what fraud is going to be committed subsequently by the said recipient of the goods. As such, the imposition of penalties upon them, on the ground that they had transported the tainted goods, cannot be justified. Accordingly, I set aside the penalties imposed on all the transporters.*

*Imposition of penalty upon the CHA M/s. Karan Freight Movers is also not justified in the absence of any evidence to show that they aided and abetted the fraud. In fact, the filing of bills of entries by M/s. Canon Industries Pvt. Limited under Target Plus Scheme by the present CHA is in accordance with law and the fraud stands committed only after the clearance of the goods. As such it cannot be said that the CHA was involved in the fraudulent import of goods. Accordingly, I set aside the penalty imposed on the CHA also.*

*Similarly, sale of the goods to M/s. Arisudana Industries Limited by M/s. Garg International, M/s. Garg Acrylic and M/s. SMN Industries cannot reflect any mala fide on the purchaser, in the absence of any evidence to show that he was aware of the clearances of the goods under Target Plus Scheme. Any purchaser in the ordinary course of business, cannot be held liable to penal action on the ground that the goods involved were tainted and cleared by the original importer with a mala fide intention. As such, imposition of penalty upon him is also set aside."*

ii. *Kumar Sayani Vs. CC (EP), Mum.* [2022 (382) ELT 402 (Tri.-Mum.)]

"3.5 From the above it is evident that positive knowledge or mens rea is an active ingredient for imposition of penalty under Section 112(b).

3.6 Even while granting complete waiver of pre-deposit, the Tribunal has observed as follows :-

"6.1 From the statement recorded under Section 108 of the Customs Act, it is clearly evident that the appellant did not know that the plastic granules supplied to him for job work purpose was imported under DEEC scheme by M/s. Sumira Plastics. After completing the job-work, the goods were returned back to M/s. Samira Plastics or as per their directions. Further, it is noted that the job-work activity of the appellant is covered under small scale exemption under the Central Excise laws since his turnover was less than the exemption limit and, therefore, he was not required to maintain the records or to get registered with the department. From the evidence available on record, we do not find any reason to come to a conclusion that the appellant herein knew about the import of the raw material under DEEC scheme and the supplier had violated the provisions of DEEC scheme. Accordingly, we are prima facie of the view that the appellant has made out a strong case for waiver of pre-deposit. We, therefore, waive the requirement of pre-deposit of the penalty imposed and stay recovery thereof during the pendency of the appeal."

3.7 In absence of any positive knowledge, penalty imposed under Section 112(b) of the Customs Act cannot be sustained."

iii. *Green Port Shipping Agencies Vs. CC, Tuticorin [2021 (378) ELT 458 (Tri.-Chennai)]*

"8.2 So, the above Section has wide amplitude to cover any person dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111 *ibid*. This implies that the requirement of mens rea is sine qua non to fasten the impugned penalty. Admittedly, the appellant is only a shipping liner who not only did not file the IGMs in question, but also did not file even the Bill-of-Lading. Facts borne on record reveal that the appellant has maintained all along that it never had the possession of the impugned goods nor was in any way concerned with the carrying,

*removing, etc., of the consignments in question and hence, it was beyond their comprehension that the goods in question were per se liable for confiscation under Section 111(d) ibid. It is nowhere on record that the appellant, in its capacity, was knowingly involved in applying for or getting the customs clearance of the goods in question. Section embodies the phrase "...which he knows or has reason to believe are liable to confiscation under Section 111..." which is of specific importance in this situation. Revenue has nowhere ascertained as to the knowledge of the appellant whether it knew or had reason to believe that the goods in question were liable for confiscation."*

19. In view of the above facts and circumstance, I am of the view that the penalty levied under Section 112(b) of the Customs Act, 1962 is not imposable and accordingly, the impugned Order-in-Original No. 41214/2015 dated 31.08.2015 to the extent of levying the penalties against the Appellants are set aside.

20. Thus, the appeals are allowed with consequential relief, if any, as per the law.

(Order pronounced in open court on 25.11.2025)

Sd/-

**(VASA SESHAGIRI RAO)**  
MEMBER (TECHNICAL)