

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

REGIONAL BENCH – COURT NO. III

**(1) Customs Appeal No.41614 of 2015**

(Arising out of Order-in-Original No.381/2015-Air dated 31.03.2015 (with corrigendum dt. 10.08.2015) passed by Commissioner of Customs (Chennai-VII), New Custom House, Meenambakkam, Chennai-600 027.)

**M/s. Danavarshini Exports (P) Ltd.,** ....Appellant  
3, Kula Thottam,  
Kangayam Road,  
Tirupur-641 604.

***Versus***

**Commissioner of Customs,** ... Respondent  
Chennai-VII, New Custom House,  
Meenambakkam,  
Chennai-600 027.

With

**(2) Customs Appeal No.41685/2015 (P.R. Agencies Vs  
Commissioner of Customs, Chennai-VII)**

**(3) Customs Appeal No.41697/2015 (Rajsujee  
International Vs Commissioner of Customs,  
Chennai-VII)**

**(4) Customs Appeal No.41698/2015 (Rajsujee  
International Vs Commissioner of Customs,  
Chennai-VII)**

**(5) Customs Appeal No.41699/2015 (D. Rajan Partner  
Vs Commissioner of Customs, Chennai-VII)**

**(6) Customs Appeal No.41700/2015 (Newsun  
Innovation Vs Commissioner of Customs, Chennai-VII)**

- (7) Customs Appeal No.41701/2015  
(K.S. Mohanasundaram Vs Commissioner of Customs,  
Chennai-VII)**
- (8) Customs Appeal No.41702/2015  
(K.P. Balasubramanian Vs Commissioner of Customs,  
Chennai-VII)**
- (9) Customs Appeal No.41703/2015 (EMR Logistics Vs  
Commissioner of Customs, Chennai-VII)**
- (10) Customs Appeal No.41704/2015 (Divyar  
Garments Vs Commissioner of Customs, Chennai-VII)**
- (11) Customs Appeal No.41723/2015 (Jatin Seth Vs  
Commissioner of Customs, Chennai-VII)**
- (12) Customs Appeal No.41724/2015 (Span Knit Wear  
Vs Commissioner of Customs, Chennai-VII)**
- (13) Customs Appeal No.41725/2015  
(R. Sivasubramaniyan Vs Commissioner of Customs,  
Chennai-VII)**
- (14) Customs Appeal No.41726/2015 (Suriya  
Narayanan Vs Commissioner of Customs, Chennai-VII)**
- (15) Customs Appeal No.41781/2015 (Primex Clothing  
Vs Commissioner of Customs, Chennai-VII)**
- (16) Customs Appeal No.41782/2015 (N. Selvi, Primex  
Clothing Vs Commissioner of Customs, Chennai-VII)**
- (17) Customs Appeal No.41783/2015  
(A. Nithyanandam Vs Commissioner of Customs,  
Chennai-VII)**
- (18) Customs Appeal No.41784/2015 (PGC Textile  
Corporation P. Ltd. Vs Commissioner of Customs,  
Chennai-VII)**
- (19) Customs Appeal No.41785/2015 (Prem Durai  
Exports Vs Commissioner of Customs, Chennai-VII)**
- (20) Customs Appeal No.41900/2015 (Poornam  
Shipping Agencies Vs Commissioner of Customs,  
Chennai-VII)**

**(21) Customs Appeal No.41960/2015 (Toptex Exports Vs Commissioner of Customs, Chennai-VII)**

**(22) Customs Appeal No.41961/2015 (P.Thangavelu Vs Commissioner of Customs, Chennai-VII)**

**(23) Customs Appeal No.41962/2015 (T.Mathivanan Vs Commissioner of Customs, Chennai-VII)**

**(24) Customs Appeal No.41963/2015 (D. Senthil Kumar Vs Commissioner of Customs, Chennai-VII)**

**(25) Customs Appeal No.41964/2015 (Jamuna Vs Commissioner of Customs, Chennai-VII)**

**(26) Customs Appeal No.41623/2018 (M.S. & Company Vs Commissioner of Customs, Chennai-VII)**

**APPEARANCE:**

Shri S. Murugappan, Advocate for the Appellant  
(Sl.No.1,6-8,15-20)

Ms. V. Prameela, Advocate for the Appellant (Sl.No.3-5,21-25)

Shri Ajay Kumar Gupta, Advocate for the Appellant (Sl.No.11)

Shri Hari Radhakrishnan, Advocate for the Appellant  
(Sl.No. 2,9,10,26)

Shri K.V. Subramanian, Senior Advocate for the Appellant  
(Sl. No.12-14)

Shri Anoop Singh, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

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

**FINAL ORDER Nos.41502-41527/2025****DATE OF HEARING: 14.11.2025**  
**DATE OF DECISION: 18.12.2025****Per: Shri P. Dinesha**

These Appeals are filed against common impugned Order-in-Original No.381/2015-AIR dated 31.03.2015 passed by Commissioner of Customs, Chennai-VII; since issue involved in all these Appeals is same, same are bunched together for common disposal.

2. Facts as could be gathered from the impugned Order-in-Original are that based on the intelligence, it appears that the investigation was taken up by DRI. On investigation, it was revealed that Shri Jatin Seth of M/s. R.K. Enterprises, Tirupur has imported 68 consignments of garment accessories from China and cleared through Sea and Airport, Chennai by using the Import-Export Codes (IECs) and Import Certificates (ICs) issued by Apparel Export Promotion Council (AEPC) to various Apparel Exporters, Tirupur and availed duty exemption as per the condition

No.24 of the Customs Notification No.12/2012-Cus dated 17.03.2012 (Sl.No. 282)/Notification No. 21/2002-Cus. dated 01.03.2002 (Sl. No. 140,167) and diverted the same to the local/domestic market. The aforesaid certificates were arranged by one N.Balaji, Proprietor of M/s. Jay Bee Logistics, Tirupur; all the apparel exporters who are litigants in these Appeals are alleged to have lent their IECs and the import certificates issued by the AEPC to the said Balaji and Jatin Seth as the case may be, for a monetary consideration and it was alleged to have found that those consignments have not been imported by them and not used by them in the manufacture of garments meant for export. Further, the Customs House Agents who have attended the Customs clearance were alleged to have received the documents from Balaji of M/s. Jay Bee Logistics. After clearance, the consignments were handed over to the transporters on the instruction of Balaji. It is thus the case of the Revenue that Jatin Seth of M/s. R.K. Enterprises, Tirupur in active connivance of N. Balaji, Proprietor of M/s. Jay Bee Logistics imported garment accessories at "nil" rate of Custom Duty as provided under Customs Notification No.21/2002 (Sl. No.140 and 167) & 12/2012 (Sl. No.282) by using the IECs, EPCs and ICs (issued by AEPC) of 15 Exporters. After

completion of investigation, DRI Chennai issued Show Cause Notice dated 31.05.2013 read with corrigendum dated 03.05.2013 to the Appellants.

2.1 A perusal of Show Cause Notice indicates that the duty was sought to be recovered from Jatin Seth and each garment exporter severally and / or jointly (para-66 of SCN).

3. It is an undisputed fact that none of the 15 IEC holders imported the subject goods for their own use. It is the case of the Revenue that the said IEC holders have given the IEC, EPC and IC for a commission to N. Balaji or Shri Jatin Seth or the IEC, IC and EPC were given by the employee of the IEC holders to N. Balaji or Jatin Seth without the knowledge of the company. Further, no IEC holder was found to have paid any amount to the supplier of the goods towards the value of imported goods. In some cases (M/s. UK Textiles, Tirupur and M/s. Rajsujee International, Tirupur), even though the money was paid by them, the same was paid back or adjusted by Jatin Seth by supplying goods to the IEC holder. Therefore, Revenue held that the first condition of 'import by manufacturer' is not fulfilled.

Shri Jatin Seth is obviously a merchant and not merchant-exporter. Further, he is also not tied up with any manufacturer in the export of garments and hence, the second condition of 'using the imported goods in the manufacture' of garments for export is also not fulfilled. Therefore it was concluded that none of the imported goods fulfilled the conditions stipulated in the subject Notification. Having not fulfilled the conditions of the subject Notification, the goods are not eligible for the benefit extended under the said Customs Notification. Therefore, subject goods are leviable to Customs Duty on merit.

4. Even though the goods were cleared on "nil" rate of duty, it is revealed by Jatin Seth and N. Balaji that the value was under-declared in order to minimize the commission given to the IEC holders or their employees, as the declared value was not representing the actual value of the goods, the same was liable for rejection under Rule 12 read with Rule 3 of Customs Valuation Rules (CVR), 2007. Actual (suppliers) invoices in the form of excel sheets (.xls format) forwarded by the supplier are available for consignments imported by Shri Jatin vide 13 Bills of Entry which was As evident from the printouts of e-mail correspondence

submitted by Balaji under his voluntary statements and from the documents retrieved from the hard disk of Balaji. Shri Jatin Seth has, in his voluntary statement dated 13.04.2013, after going through the printouts of these actual invoices, admitted the same as the actual invoices received from his Chinese suppliers for the above mentioned consignments; that the value mentioned in these invoices are in Chinese RMB and are FOB price. Accordingly, for these Bills of Entry, it was assumed that the value mentioned in these actual invoices merited acceptance as the transaction value under Rule 3 of the CVR, 2007.

5. Duty-free import of textile/garment accessories is allowed only if they are imported by manufacturer- exporter or merchant-exporter (subject to the condition specified therein) for use in the manufacture of textile garments meant for export. Shri Jatin Seth masterminded in collusion with Balaji as well as different garment exporters, the actual imports are made by a trader (not a bonafide exporter) and they are not meant for manufacture and subsequent export by any AEPC registered exporter in whose name the imports are made, which gets corroborated by the voluntary statements deposed and e-mail correspondence submitted,

by various persons during the course of investigation as well as the documents seized from various premises.

6. From the foregoing, the provisions of law as envisaged in the Customs Notification No.12/2012-Cus. dated 17.03.2012, (Sl.No.282) / Notification No.21/2002-Cus. dated 01.03.2002 (Sl. No. 167, 167A & 140), as applicable during the period, have been contravened inasmuch as the conditions prescribed under said serial numbers have not been complied with. The impugned consignments have actually been imported by a trader viz., Shri Jatin Seth in the name of various garment exporters misusing their IE Code as against the primary condition that the goods must be imported invariably by a garment exporter registered with AEPC, thereby violating the actual user condition prescribed in the Notification. Further, the impugned goods have not been used in the manufacture of garments meant for export either directly by the manufacturer-exporter or indirectly by the merchant-exporter through approved supporting manufacturers. Instead the goods have been in turn sold by Shri Jatin Seth (being the actual importer) in the open market to various local buyers all over the country.

7. The foregoing clearly establishes the fact that Jatin Seth is the actual Importer and beneficiary of the subject import. Therefore he is liable for penalty under Section 112(a) and 114AA of Customs Act, 1962. Shri N.Balaji had actively colluded and connived with Jatin Seth in carrying out the offence of evading Customs duty. Therefore, it is held that Shri N.Balaji is liable for penalty under Section 112(a) and 114AA of Customs Act, 1962.

8. In view of the outcome of investigation and the statements of various persons, the SCN apprehended that some of the Appellants herein have willfully colluded with Jatin Seth and Balaji and allowed their IECs and Import Certificates issued by AEPC to be used in the import of garment accessories by Jatin Seth for monetary consideration. Insofar as the remain garment-exporters/Appellants, it is the case of Revenue that though their IECs and ICs were used by Jatin Seth and Balaji; however it appeared from the facts and statements that their involvement in arranging IECs was very much minimal, but they were found to have willfully colluded with Balaji and allowed the IEC and the Import Certificates issued by AEPC

to be used for duty-free import of garment accessories for monetary consideration. Insofar as the rest of the Appellants who are the Custom House Agent and freight forwarders for the import consignments in question, having held to have attended customs clearance without exercising due diligence. In view of the above facts, it was proposed in the SCN to make Jatin Seth and each garment exporter answerable to the Adjudicating Authority for duty, interest as well as penalty, several garment exporters have to be severally and / or jointly (with Jatin Seth) answerable to the respective Adjudicating Authorities. Accordingly, proposal was made (i) to deny exemption benefit under Customs Notification No.12/2012 ibid (ii) to reject the declared/assessed value in respect of the goods imported and demand the differential duty apart from applicable interest and penalties.

9. It is very clear from the above SCN and the proposals therein that the Appellants have been made liable to the duty demand jointly and / or severally with Jatin Seth. The above SCN culminated in common Order-in-Original No. 381/2015 dated 31.03.2015 wherein the proposed demand jointly and / or severally claimed to be confirmed against

each of the Appellants herein along with Jatin Seth who is also one of the Appellants.

10. Aggrieved by the above demand, the Appellants have filed the present Appeals before the Registry vide acknowledgement dated 24.07.2015. During pendency of the Appeals, it appears that the Adjudicating Authority has issued a corrigendum to the above Order-in-Original which is impugned in these Appeals on 10.08.2015 and the bone of contention in this corrigendum is re-narration of demand of duty jointly and / or severally.

11. We have heard Shri K.V. Subramanian, Ld. Senior Advocate and Shri S. Murugappan, Smt. V. Prameela, Shri Ajay Kumar Gupta, Shri Hari Radhakrishnan, Ld. Advocates for the Appellants and Shri Anoop Singh, Ld. Joint Commissioner for the Respondent.

12. The primary contention of the Ld. Counsel for the Appellants is that the demand proposed in the SCN jointly and / or severally which came to be confirmed in the impugned Order-in-Original is not enforceable since admittedly the Appellants are in no way connected with each

other and nor is it a fact that there was a partnership firm and the Appellants are partners; all the Appellants are separate legal entities / juridical persons and therefore there could not be any proposal in the first place to demand jointly and / or severally which was unfortunately confirmed in the impugned Order-in-Original. They would also submit that the error so committed was further perpetuated by the very Adjudicating Authority by passing a corrigendum.

13. *Per contra*, Shri Anoop Singh, Ld. Joint Commissioner took us through the proposals made in the SCN and the demand confirmed in the impugned Order-in-Original and submitted that corrigendum was nothing but what was confirmed in the Order-in-Original has been reiterated for clarity through the corrigendum.

14. On the above primary issue, we have considered the rival contentions and in following decisions / orders of various judicial fora, it has been clearly held that there cannot be any demand jointly and / or severally :-

(i) **Hotel Bissau Palace and Others Vs Commissioner of Customs Exports, Nhava Sheva** - 2017 (6) TMI 1010-CESTAT MUMBAI

(ii) **Shree Leelaram Arjandas Asudani and Others Vs Commissioner (Customs) Ahmedabad** - 2017 (2) TMI 45 - CESTAT AHMEDABAD.

(iii) **M/s.Golden Tobacco Ltd. Vs CCE Delhi** - 2014 (30 TMI 983-CESTAT.

(iv) **Sree Aravindh Steels Ltd. Vs CCE Trichy** - 2007 (216) ELT 332 (Tri.-Chennai).

(v) **Rimjhim Ispat Ltd. Vs CCE Kanpur** - 2013 (293) ELT 124 (Tri.-Del.).

(vi) **Kishore International Vs CC Amritsar** - 2015 (3) TMI 375-CESTAT New Delhi.

15. We have considered the decisions / orders relied upon by Appellants (*supra*). The common takeaway from the above judicial precedents is that Courts/Benches have held that any demand of duty cannot be confirmed against various persons on "jointly and / or severally" basis and in view of the above, the Benches have held it proper and appropriate to remand the cases back to the file of Original Authority to decide against whom the actual demands could be made.

16. The impugned Order-in-Original is therefore set aside and the cases are remanded back to the file of Original Authority; the Original authority shall consider all relevant

documents etc. as available and then arrive at a proper factual finding as to the actual importer / beneficial owner against whom, any duty would be demanded. All the contentions are left open. The Appeals are disposed on above terms, by way of remand.

(Order pronounced in open court on 18.12.2025)

sd/-

**(VASA SESHAGIRI RAO)**  
Member (Technical)

sd/-

**(P. DINESHA)**  
Member (Judicial)