CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Miscellaneous Application No.41034 of 2025
&
Customs Appeal No.41315 of 2015

(Arising out of Order-in-Appeal C. Cus II No.186/2015 dated 27.02.2015 passed by Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai-600 001.)

Shri Mallesh Cheekoti, **....Appellant**
Bungalow #154,
Hill Country,
Bachupally,
Hyderabad-500 072.

Versus

Commissioner of Customs **... Respondent**
(Chennai-II),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

APPEARANCE:

Shri M. Karthikeyan, Advocate for the Appellant
Ms. Anandalakshmi Ganeshram, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No.40051/2026

DATE OF HEARING: 17.11.2025
DATE OF DECISION: 09.01.2026

Per: Shri P. Dinesha

The present appeal is filed by Shri Mallesh Cheekoti, aggrieved by the Order-in-Appeal No.186/2015 dated 27.02.2015 passed by Commissioner of Customs (Appeals-II), Chennai.

2. It is an unfortunate case where a bona fide owner of a car who imported his used car from UK to India under grieving circumstances, was stripped off of his very claim over the car by the Revenue Authority/Adjudicating Authority.

3. Brief facts as we gather from the impugned Order-in-Appeal are that the Appellant from the year 2000 onwards was working in UK and on account of unfortunate demise of his wife, returned to India for permanent settlement. During his stay in UK, the Appellant has purchased BMW CAR from

M/s. Black Horse Car Sales, West Midlands against the sales invoice dated 17.12.2012 and the sales invoice value was GBP 9800. The Imported car was within the possession of the Appellant for about three years before importation into India. The Appellant had filed the Bill of Entry No.5714222 dated 05.06.2014 for clearance of the imported goods as detailed in the impugned Bill of Entry as "Used Car-BMW 520D SE", Model 2006 and the declared value at Rs. 5,00,000/- (CIF) –GBP 4943.15". Since, the Appellant has not produced the original Manufacturer Invoice in support of their declared value against the Bill of Entry dated 05.06.2014 the same was rejected under Rule 12 of the Customs Valuation (Determination of Value of the Imported Goods) Rules, 2007. In this connection, the Department has relied on the instructions of the Directorate General of Valuation in F.No. VAL/TECH/21/2013 dated 13.01.2014 directing to follow Parker's Guide for deciding the prices of import of new and used cars. Accordingly, based on the Parker's Guide after allowing the appropriate depreciation the value of the car in question has been re-determined at GBP 8103.172/- (CIF)- Rs. 8,19,635.84/- In terms Rule 9 of CVR, 2007 read with the Section 14 of the Customs Act,

1962. The Lower Adjudicating Authority has denied the Transfer of Residence (TR) concession for the imported car as the Appellant has short visited to India for 327 days from 25.12.2011, to 23.12.2013 during his last TWO years in aboard. Therefore, this car has been imported in violation of the conditions of the Foreign Trade Policy as brought out in Chapter 87 Notes. Accordingly, the Lower Adjudicating Authority has confiscated the impugned car under Section 111(d) of the Customs Act, 1962 read with Section 3 (3) of Foreign Trade (D&R) Act, 1992 read with provisions of the Central Motor Vehicles Act, 1988 and rules made thereunder. Redemption on payment of fine of Rs.1 lakhs was allowed under Section 125(1) of the Customs Act, 1962. Penalty of Rs.25,000/- under Section 112 (a) ibid was imposed on the Appellant.

4. It appears that the Appellant filed an Appeal before the Commissioner (Appeals), Chennai, and the Commissioner (Appeals) also having rejected the same, the present Appeal is filed before us.

5. Heard Shri M. Karthikeyan, Ld. Advocate for the Appellant and Ms. Anandalakshmi Ganeshram, Ld. Assistant Commissioner for the Respondent-Revenue; we have perused the documents placed on record and considered the case law relied upon during the course of hearing before us.

6. During the hearing, before the Tribunal Ld. Advocate filed Additional Grounds whereby, the Appellant has pleaded not to consider his earlier plea for release of the Car in question as the same has been in the Custody of the Customs Department since the date of its seizure in 2014, he is apprehensive about its road worthy condition and therefore, he is not even willing to take the redemption offer. It is thus his prayer to waive of redemption fine as he is not interested in the car and the associated penalty imposed on him.

7. After hearing both sides, the only question that arises for our consideration is, "whether the levy of penalty is sustainable in law ?"

8. From the Order-in-Original dated 23.10.2014, we note that redemption fine of Rs.1,00,000/- was imposed under Section 125 of the Customs Act which, the Appellant declines to accept as he is not even willing to accept a disfigured car seized and kept in the Custody Of Customs, fearing the road worthy condition of the car and hence, we allow the Miscellaneous Application and the prayer made therein.

9. Insofar as penalty under Section 112(a) ibid is concerned, though the Appellant initially challenged the confiscation and penalty however has now restricted his prayer only to the penalty under Section 112(a) which is levied at Rs.25,000/-. Though the Original Authority has imposed the above penalty apparently after considering the plea of the Appellant but, however, the fact remains that the import of the car in question was made by the Appellant without being aware of the laws relating to the import and also owing to the loss of his wife, which made him to come back to India once for all. Though penalty is leviable, but in view of the above peculiar facts of the case, we deem it appropriate to reduce the penalty under Section 112(a) to

Rs.5,000/- (Rupees Five Thousand only) and to that extent we allow the Appeal partly.

10. Resultantly, Appeal stands partly allowed as indicated above and the penalty under Section 112(a) is reduced to Rs.5000/-. MA stands disposed of on above terms.

(Order pronounced in open court on 09.01.2026)

sd/- sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

(P. DINESHA)
Member (Judicial)

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