CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41893 of 2015

(Arising out of Order-in-Original No.38590/2015 dated 29.05.2015 passed by Commissioner of Customs, Chennai-II, Custom House, No.60, Rajaji Salai, Chennai 600 001)

Manoj Arjun Gore **.... Appellant**
Flat No.4, Javid Manzil KK Ganguly Marg,
Juhutara Road, Santa Cruz (W),
Mumbai 400 049.

VERSUS

The Commissioner of Customs(II) **... Respondent**
Custom House,
60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Shri T. Chezhiyan, Advocate for the Appellant
Smt. O.M. Reena, Authorized Representative for the Respondent

CORAM :

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

FINAL ORDER No.40369/2026

DATE OF HEARING : 28.01.2026
DATE OF DECISION :17.03.2026

Per: Shri P. Dinesha

This Appeal is filed against Order-in-Original No.38590/2015 dated 29.05.2015 passed by the Commissioner of Customs, Chennai-II and the only challenge is against the imposition of penalty under Section 112 (a) and Section 114AA of the Customs Act, 1962.

2. Shri T. Chezhiyan, Ld. Advocate appeared for the Appellant. He would submit that this Bench vide Final Order Nos.40502 to 40515/2025 dated 07.05.2025 has, in an identical set of facts, deleted the penalties imposed on the Appellants therein. He would submit that the Appellant is only an employee of M/s.Topaz Plastic Industries, Malaysia who was a manufacturer of PVC flex banners. When the importers in India imported PVC flex banners from Malaysia, the Malaysian Commerce Ministry and the Government had issued the Certificate of Origin, which was disputed by the D.R.I. resulting in issuance of Show Cause Notices as well as the Appellant herein. After considering the explanation of the importers as well as the Appellant herein, a common Order-in-Original was passed against the importers, which, on further Appeal, came to be set aside by this Bench vide Final Order dt. 07.05.2025 *supra*.

3. Ld. Advocate would thus plead that when the importer itself was exonerated, the levy of penalty thus lacks merit and in this regard he would invite our attention to the Final Order in the Appellant's own case [Final Order Nos.41216-41218/2025 dt. 31.10.2025] wherein the Bench has deleted the penalties. He would thus plead for setting aside the levy of penalty.

4. *Per contra,* Smt. O.M. Reena, Additional Commissioner relied on the findings of the impugned order.

5. We have heard the rival contentions and perused the documents and judicial pronouncements relied upon during the course of arguments. The only issue to be decided by is, "whether the imposition of penalty is sustainable in law ?"

6. After carefully perusing the Final Orders *supra* relied upon by the Ld. Advocate, we find that under similar circumstances the penalties imposed on the Appellants have been deleted by this Bench. The relevant portion in Final Order Nos.41216-41218/2025 dt. 31.10.2025 reads as under :

> "9. As regards Shri Manoj Arjun Gore, the charge against him is that he in collusion with Indian importers devised an illegal scheme to evade anti-dumping duty by routing goods of Chinese goods through Malayasia. We have seen that the main charge against Shri Manoj Arjun Gore of obtaining

> fake COO certificates from the Malaysian Authorities were never investigated or followed up by revenue with the Malaysian authorities and hence the burden of proof has not been discharged by revenue. The electronic documents relied upon against the appellant are found to be not admissible as evidence. Hence the question of imposition of penalty upon him does not arise. This being so, we do not feel it necessary to examine the legal issue as to whether the company alone was liable to a penalty or whether the appellant who was working abroad would come under the ambit of the Customs Act prior to 28.03.2018."

7. In view of the above, we set aside penalty imposed in the impugned order and allow the Appeal.

(Order pronounced in open court on 17.03.2026)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

(P. DINESHA)
Member (Judicial)

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