

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

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41575 of 2016

(Arising out of Order-in-Appeal No.74/2016-TTN (CUS) dated 23.06.2016 passed by Commissioner of Customs & Central Excise (Appeals-II), No.1, Williams road, Cantonment, Trichirappalli 620 001.)

M/s.Growrite Substrates (India) Pvt. Ltd. Appellant

Flat No.6, Door No.368-2nd Floor,
Sunshine Apartments, Belly Area,
"Z" Block, Anna Nagar,
Chennai 628 004.

VERSUS

The Commissioner of Customs

... Respondent

Custom House,
Tticorin 628 004.

APPEARANCE :

Shri M. Kannan, Advocate for the Appellant
Smt. Rajni Menon, Representative for the Respondent

CORAM :

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

FINAL ORDER No.40447/2026

DATE OF HEARING : 27.03.2026

DATE OF DECISION : 30.03.2026

This Appeal is filed against the impugned Order-in-Appeal No.74/2016-TTN(CUS) dated 23.06.2016 passed by the Commissioner of Customs (Appeals-II), Tiruchirappalli.

2. Heard Shri M. Kannan, Id. Advocate for the Appellant, who would submit that though there is a prayer in the Memorandum of Appeal / Grounds of Appeal to set aside the impugned order in toto, however, the Appellant is not challenging the determination of differential duty/ enhanced value of the goods which arose due to the difference in the actual weight as against the declared weight of the cargo imported. He would thus restrict the scope of his arguments to the imposition of redemption fine and penalty against the Appellant. In this regard, he would invite my attention to the packing list and the commercial invoice raised by the foreign supplier, wherein, the gross weight of the goods in question was mentioned as 5163.00 kgs. which was also the declared weight in the Bill of Entry filed by the Appellant-Importer. He would submit that only when the actual weight was checked by the Department when the goods landed in India, did the Appellant come to know about the

actual weight, which was about 7050 kgs. This, according to Id. Advocate, was a *bonafide* mistake on the part of the Appellant for having believed the foreign supplier and that the Appellant had no role whatsoever in the misdeclaration insofar as the weightage of the goods in question is concerned. He would thus pray for reduction in the redemption fine imposed under Section 125 of the Customs Act, 1962 and penalty under Section 112 (a) *ibid*.

3. *Per contra*, Smt. Rajni Menon, Id. Deputy Commissioner supported the findings of the lower authorities. She would also submit that there has been a gross misdeclaration insofar as the weightage of the goods in question is concerned, which fact has not been denied by the Appellant and hence, the Appellant has to face the consequences since he is the Importer.

4. Upon considering the rival contentions and after going through the documents / orders of lower authorities placed on record, I find that the only question to be answered is, 'whether the imposition of redemption fine and penalty of Rs.3,00,000/- and Rs.1,50,000/- respectively, are in order ?'.

5. Admittedly, the facts are not disputed; The Appellant is also not contesting the discrepancy in the weightage of the goods in question, but however, the disputed portion is the role of the Appellant in the alleged misdeclaration of weightage. The invoice issued by the foreign supplier and packing list clearly indicate the weightage of the goods that was dispatched by the foreign supplier which was perhaps agreed quantity between the Appellant-Importer and the foreign supplier. Only when it reached the Indian Customs did the Appellant was made known as to the excess quantity of the cargo that arrived and the Revenue is not able to attribute any specific role or hand of the Appellant as regards the excess weightage. The fact however remains that there is a mismatch of the goods weightage of the goods in question, for which, somebody has to answer or face the consequence as stipulated under the statute. I find that in the above peculiar facts and circumstances of the case, when the Appellant's bonafides are not doubted, hence, the redemption fine and penalty imposed appear to be slightly on the higher side and hence, the same requires reduction. Accordingly, the redemption fine is reduced to **Rs.1,00,000/-** (Rupees One lakh only) and penalty under

Section 112 (a) is reduced to **Rs.50,000/-** (Rupees Fifty thousand only). The impugned order is modified to this extent and the Appeal stands partly allowed as indicated above.

(Order pronounced in open court on 30.03.2026)

sd/-

(P. DINESHA)
Member (Judicial)

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