CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH- COURT NO. I

CUSTOMS APPEAL No. 1009 of 2005

(Arising out of Order-in-Appeal No.VIII/ICD/6/TKD/Adj/Comm/76/03/5527 dated 26.02.2005 passed by the Commissioner of Customs (Adjudication), Tughlakabad, New Delhi)

Manoj Shah **....Appellant**
401, Devendra Apartments, D-Wing Rokhadia Lane,
Borivali, (W),
MUMBAI

Versus

Commissioner of Customs (Import) **....Respondent**
(Import & General)
ICD, Tughalkabad
NEW DELHI

APPEARANCE:

None for the Appellant
Shri Shiv Shankar, Authorised Representative of the Department

CORAM : **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

Date of Hearing/ Decision: May 07, 2025

FINAL ORDER NO. 50637/2025

JUSTICE DILIP GUPTA :

Manoj Shah[1] has filed this appeal to assail the order dated February 26, 2005 by which a penalty of Rs. 5,00,000 lakhs has been imposed on him under section 112 of the Customs Act, 1962[2].

2. Case has been called out, but no one has appeared on behalf of the appellant. When the matter was taken up on December 10, 2024,

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1 **the appellant**

2 **Customs Act**

the Bench made it clear that the matter may be decided on merits even if the appellant does not appear. The appeal is, accordingly, being decided on merits after hearing Shri Shiv Shankar, learned authorized representative appearing for the department.

3. It transpires from the order dated February 26, 2005 passed by the Commissioner that on the basis of a forged advance licence no. 03031020 dated 23.07.1999, which was originally issued in the name of M/s Vindas Chemicals Industries Private Limited by JDFT, Mumbai for the port of registration at JNPT, that copper scrap was imported. This advance licence was shown to have been transferred to M/s Uno Enterprises, Thane, which was further transferred to M/s Rahuljee & Co. However, JDFT, Mumbai gave in writing that they had not issued any advance licence no. 03031020 dated 23.07.1999 in favour of M/s Vindas Chemicals Industries. M/s Vindas Chemical Industries, in whose name the licence was issued, also denied that the licence was issued to them. They also denied that they had transferred the licence to M/s Rahuljee & Co.

4. The Commissioner confirmed the duty under section 28 of the Customs Act and also imposed penalty. The relevant portion of the order passed by the Commissioner is reproduced below :

> "**From the above, it is clear that** Shri Bipin Sha, Vishawanath Jalan, **Manoj Shah**, Gautam Chaterjee, Manikchand Tarkar, Umesh Joshi have **connived along with Anil Goel Collectively and in their individual capacity and aided and abetted in the attempted evasion of customs duty Rs. 17,45,155/-. They have also abetted in obtaining and using the forged and bogus advance licence knowing fully that the goods were actually not permitted against said licences to be cleared duty free**. They dealt the goods liable for confiscation under Section

111(o) of the Customs Act and accordingly, they are liable for penal action under Section 112 of the Customs Act."

5. It is this part of the order imposing a penalty of Rs. 5,00,000/- upon the appellant that has been assailed in this appeal under section 112 of the Customs Act. It is clear from the order that forged licence was used for evasion of customs duty and the appellant abetted in obtaining the forged advance licence. The appellant in his letter dated February 07, 2000 also confessed his active role/involvement in the racket.

6. The Supreme Court in **Munjal Showa Ltd**. **versus Commissioner of Customs and Central Excise (Delhi-IV) and M/s Friends Trading Co. Versus Union of India and Ors.[3],** while dealing with a case where a forged scrip was utilized, held that exemption benefit cannot accrue on the basis of such a forged licence.

7. There is, therefore, no infirmity in the impugned order. The appeal is, accordingly, dismissed.

(Dictated & pronounced in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash

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