**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 53012 OF 2015

[Arising out of the Order-in-Original No. JOD-CUSTM-PRV-COMMR.-03/15 dated 30/01/2015 passed by Commissioner of Customs, Jodhpur, Jaipur 05.]

M/s Deepak Lilaram Asudani, ...**Appellant**
13, Rajnigandha Bunglows,
Near Sant Kabir School, Thaltej,
Ahmedabad – 380 054.

Versus

Commissioner of Customs, Jodhpur, ...**Respondent**
NCR Building, Statue Circle, C Scheme,
Jaipur – 05.

APPEARANCE:
Shri Salil Arora, Advocate for the appellant.
Shri Shiv Shankar, Authorized Representative for the Department

CORAM:
HON'BLE JUSTICE MR. DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51169/2025

DATE OF HEARING/DECISION : 31.07.2025

P.V. SUBBA RAO

Shri Deepak Lilaram Asudani[1] filed this appeal to assail the order-in-original dated 30.01.2015[2] passed by the Commissioner of Customs, Jodhpur whereby he decided the proposals made in the show cause notice dated 25.02.2014 issued by the Directorate of Revenue Intelligence to five persons including the appellant herein and his father Shri

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1. **Appellant**
2. **impugned order**

Lilaram Arjandas Asudani. In the impugned order, the Commissioner imposed a penalty of Rs. 5 lakhs on the appellant assailing which this appeal has been filed.

2. We have heard Shri Salil Arora, learned counsel for the appellant and Shri Shiv Shankar, learned authorized representative for the Revenue and perused the records.

Submissions on behalf of the appellant :-

3. Shri Salil Arora, learned counsel for the appellant made the following submissions :-

(i) The appellant is the son of Shri Lilaram Arjandas Asudani, who was the mastermind in importing goods through under-valuation. Since he was an illiterate and could not use computers or mobile phones, he took help of his son – the appellant – in sending and receiving messages.

(ii) M/s Rodex International, a unit located in the Kandla Special Economic Zone[3], imported a consignment of Refrigerators and Televisions vide Bill of Entry No. 00001296 dated 02.02.2011. During examination 73 packages were found which tallied details in the Bill of Entry. The declared value of this consignment was U.S. $ 24,322. Further examination resulted in recovery of 4 polythene bags containing 28580 pieces of memory cards which were not declared in the Bill

3. **KSEZ**

of Entry. Further investigations led to the discovery of massive under-valuation in the goods imported in the names of M/s Rodex International and M/s DK Enterprises.

(iii) Shri Lilaram Asudani was the person behind the smuggling and under valuation and he used the appellant's E-mail for the purpose. The appellant's E-mail was accessed and print outs were taken during investigation.

(iv) After recording statements, examining the E-mails and completing the investigation, a show cause notice dated 02.02.2014 was issued by the DRI which culminated in the impugned order.

(v) The appellant is only aggrieved by the penalty of Rs. 5 lakhs imposed on him under section 112 of the Customs Act.

(vi) The penalty has been imposed on only for the reason that he had received E-mails on behalf of his father and forwarded them to others. There is no direct evidence that the appellant was involved in smuggling or under-valuation.

(vii) The adjudicating authority held that the appellant was aware of under-valuation of the goods and had suppressed facts which amounted to smuggling. The appellant had nothing to do with the import of memory cards by M/s DK Enterprises nor can there be any act or omission on his part.

(viii) There is no evidence of that the appellant had any knowledge about the consignments or the under-valuation of the goods and, therefore, no penalty should have been imposed on the appellant. The impugned order may be set aside insofar as it imposes penalty of Rs. 5 lakhs on the appellant.

Submissions on behalf of the Revenue :-

4. Learned Authorized Representative for Revenue made the following submissions :-

(i) The case pertains to importation of 2 GB SD memory cards by M/s Rodex International and M/s DK Enterprises during the period July 2010 to February 2011 on the cases of grossly under-valued invoices resulting in substantial evasion of customs duty.

(ii) Detailed investigation by DRI revealed that the imports were done through two sets of invoices issued by the supplier – M/s Super-Chien Technology Ltd., Taiwan. One set of invoices presented before the customs declared the value of memory cards as U.S. $ 1.75 per card whereas the parallel invoices recovered from the E-mails showed significantly higher actual transaction values.

(iii) Forensic and documentary analysis revealed the goods had distinct product marking and serial numbers which were also mentioned in the invoices clearly establishing that consignees had suppressed the actual value of the goods. The total under valuation was of the tune of Rs. 12,01,07,925/- on which customs duty of Rs. 99,50,716/- was evaded.

(iv) Five key individuals were involved in the smuggling racket –

(a) Shri Lilaram Asudani was the principal mastermind and de-facto importer of the goods ;

(b) Shri Deepak Lilaram Asudani – the appellant herein was involved in the execution of import transactions, managing all communication through mobile phones and E-mails with the Taiwanese supplier. He was responsible for coordinating the shipment details and manipulation of documents. Incriminating E-mails, call records and WhatsApp messages were found with the appellant which establishes his knowledge and complicity in the scheme of under-valuation.

(c) Shri Dhiraj Kumar Thakur, Proprietor of M/s D.K. Enterprises in whose name the consignments were sent; and

(d) Shri Sarav Pramodchandra Suthar, employee of the importing firms.

(v) As far as the appellant is concerned, he had knowingly involved and participated directly in manipulation of invoices and communication of false information resulting in under-valuation of the goods. The goods were thus rendered liable to confiscation under section 111 (m)

(vi) For these acts, a penalty of Rs. 5 lakhs was imposed on the appellant under section 112 in the impugned order.

(vii) There were clearly two sets of invoices for each consignment sent by M/s Super-Chien Technology Ltd., Taiwan – the Commercial invoice reflecting the actual transaction value and a second invoice containing artificially suppressed value which was presented to the customs.

(viii) Independent verification through the Consulate General of India in Hong Kong established two transaction values of each consignment.

(ix) The appellant was the key person in the entire transaction as he had received all the E-mails and WhatsApp messages with both the original and the duplicate invoices and passed on the information to his father.

(x) Therefore, the appellant involvement is clear and the impugned order may be upheld and the appeal may be dismissed.

Findings :

5. We have considered the submissions on both sides and perused the records.

6. We find that the appellant does not dispute that goods were under-valued and that his father was the mastermind in the entire racket. He also does not dispute that his father was an illiterate and, therefore, he had handled all entire transactions on behalf of his father using his E-mail and WhatsApp messages and passed them on to his father.

7. Evidently, it is unthinkable that the appellant did not read the E-mails and the invoices or was not aware of the contents of the E-mails and invoices. His father was illiterate and could not have read the E-mails. He depended on the appellant for all communications. Evidently, the appellant must have read out and explained the contents of the E-mails and details in the invoices to his father. It is also not in dispute that the appellant had, in turn, sent E-mails and messages on instructions of his father to others.

8. It is also not in dispute that the appellant's father was the key person in entire racket of under-valuation through parallel invoices. In this factual matrix, we find that the appellant played a key role in the entire racket of under-invoicing and evading customs duties.

9. In view of the above, we find no reason to interfere with the penalty of Rs. 5 lakhs imposed on the appellant in the impugned order. The impugned order is upheld in so far as it imposes penalty of Rs. 5 lakhs on the appellant and the appeal is dismissed.

(Order dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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