CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 590 OF 2010

[Arising out of the Order-in-Original No. 02/APSS/CC/DRI/NCH/2010 dated 16/08/2010 passed by The Commissioner of Customs (Adjudication), New Delhi - 110037.]

M/s Uttam Sharma ......**Appellant**
C-78, Jeewan Park, Pankha Road,
(Opp. Janakpuri A-2 Block),
New Delhi – 110 059.

Versus

Commissioner of Customs (Adjudication), ...**Respondent**
New Customs House, IGI Airport,
New Delhi.

APPEARANCE:

None for the appellant.
Shri Nikhil Mohan Goyal, 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. 50311/2026

DATE OF HEARING/DECISION : 18.02.2026

P.V. SUBBA RAO

This appeal assails the order-in-original dated 16.08.2010[1] passed by the Commissioner of Customs (Adjudication) in which a penalty of Rs. 35,00,000/- has been imposed against Shri Uttam Sharma, Chief Financial Officer of M/s EDAG Technologies India (P) Ltd. under section 112 of the

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1. the impugned order

Customs Act, 1962[2] for acts and omissions which rendered the imported goods liable to confiscation.

2. None appeared on behalf of the appellant despite notices. We have heard Shri Nikhil Mohan Goyal, learned authorized representative for the Revenue and perused the records.

3. The facts of the case are that M/s EDAG Technologies India (P) Ltd.[3] is a subsidiary of EDAG Technologies, Germany. It received a turnkey project to set up the plant of Ford Company in Chennai. As per the agreement, the total value of the project was Rs. 22.21 crores of which the import content was to be 49% and local content was to be 51%. EDAG imported certain goods necessary to execute the project from EDAG Germany and paid customs duty on the value of the goods. EDAG entered into a contract with a local supplier M/s Neel Metal Products Ltd. to carry out certain local supplies and services. Since M/s Neel Metal Products Ltd. had not fulfilled its obligations as per the contract, EDAG imported more goods and for this purpose made a provision to pay one million EURO to EDAG Germany. Since this amount was not reflected in the Bills of Entry, it appeared to the Directorate General of Revenue Intelligence[4] that EDAG had suppressed the value of the imported goods to the extent of Rs. 6,97,00,000/-. It also

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2. Act
3. EDAG
4. DRI

appeared that EDAG Germany had raised an invoice for this amount on EDAG but later cancelled the invoice. A show cause notice was issued proposing to reject the value declared for import of goods under Rule 10A of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988[5] and re-determine it under Rule 8 of the 1988 Rules and recover differential duty under section 28 of the Act along with interest. It was also proposed to confiscate the imported goods under section 111 (m) of the Act and impose penalties under section 114A and 112 of the Act. These proposals were confirmed by the Commissioner in the impugned order. Appeals filed by EDAG, EDAG Germany and certain other persons were decided by a final order dated 06.06.2025 by this Tribunal in Customs Appeal No. 614 of 2010 and others. It was concluded in the order that no additional consideration was paid in the case and the invoice for one million EURO was cancelled and no payment was made. Accordingly, it was held that there was no case for rejection of the declared value under Rule 10A of 1988 Rules and or re-determination of value under 1988 Rules. It was further held that the statements relied upon in the show cause notice were not relevant because the Commissioner had not admitted them following the procedure laid down under section 138B of the Act. Accordingly, the demand for recovery of duty under section 28

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5. 1988 Rules

of the Act and the confiscation of the goods and imposition of penalties were set aside.

4. This appeal filed by Shri Uttam Sharma, however, was not tagged with the other appeals. It has been listed today before us. As we have already held that the impugned order was not sustainable in our Final Order dated 06.06.2025, we find that this appeal also deserves to be allowed and the penalty imposed upon Shri Uttam Sharma deserves to be set aside.

5. The appeal is allowed and the penalty imposed upon Shri Uttam Sharma in the impugned order is set aside with consequential relief to him.

(Order dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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