CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI

PRINCIPAL BENCH, COURT NO. 3

Customs Appeal No. 51832 of2025

[Arising out of Order-IN-Appeal No. CC(A) CUS/D-I/Export/nch/556/2024-25 dated 19.06.2025 passed by the Commissioner of Customs (Appeals) New Customs House, Near IGI Airport, New Delhi-110037]

M/s Fedex Express Transportation and Supply Chain Services (India) Private Ltd ......**APPELLANT**

First Floor, New Express Courtier
Terminal 2, New Delhi-110037

Vs.

Commissioner of Customs, ACC Exports New Delhi ....**RESPONDENT**

New Customs House, Near IGI
Airport, New Delhi 110037

<u>Appearance:</u>

Ms. Jyoti Pal, Ms. Anjali Singh and Ms. Kruti Parasar, Advocates for the Appellant
Mr. Rohit Issar, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 50378/2026

Date of Hearing :16.03.2026
Date of Decision:16.03.2026

ASHOK JINDAL:

The appellant is in appeal against the impugned order wherein a penalty of Rs. 58,552/- has been imposed under Section 112(a)(ii) of the Customs Act, 1962.

2. Brief facts of the present case are that the appellant is an authorized courier Imports and Exports (Electronic Declaration

and Processing) Regulations, 2010 ('CIER 2010") and providing courier services to their clients. The procedure is as under "the appellant accepts the bookings from consignor/consignees for movement of goods from abroad to India and vice-versa. The appellant collects authorization from consignor/consignee at the time of booking or on arrival of goods in India as per Regulation 12(1)(i) of CIER 2010. The appellant collects such authorization, along with KYC documents, such as Aadhar Card / PAN Card ete, in advance. The appellant ensures that complete screening for the purpose of examination of the consignment is carried out in the presence of the Customs Officials posted at the courier clearance terminal."

3. A show cause notice dated 08.06.2021 was issued to the appellant on the ground that 15 consignments imported at New Customs House Delhi found misdeclared and proposed the penalty under Section 112(a)(ii) and Section 117 of the Customs Act, 1962. The adjudicating authority although recorded that the appellant could not have ascertained the eligibility of ADD on the imported goods on the basis of description provided by the importer but he imposed the penalty under Section 112(a) & 117 of the Customs Act, 1962. The said order was challenged before the learned Commissioner (Appeals) who dropped the penalty under Section 117 but confirmed the penalty under Section 112(a) of the Customs Act, 1962. Aggrieved from the said order, the appellant is before me.

4. The learned counsel appearing on behalf of the appellant submits that in this case one importer Harry International imported the consignments to be transported through the appellant and for custom clearance, the appellant was also appointed thereof. In fact, the proceedings were initiated against the said importer a live consignment for import of USB Flash Drives/Pen Drives, GP Global trading, Hong Kong, China and the impugned goods are declared as "User Datagram Protocol Chips is a part of the Internet Protocol Suite used by programs running on different computers on a network", this is a part used for the computers under Tariff Item 85235100. The said matter was investigated by SIIB Mumbai and it was revealed that the imported goods appears to be USB flash drives/pen drives attracting Anti-Dumping Duty. In these set of facts, the proceedings were initiated against the importer as well as the appellant by issuance of the show cause notice dated 30.12.2020, wherein penalty was proposed against the appellant under Section 112(a) and 117 of the Customs Act. The said show cause notice was adjudicated and it was held that the matter is available on record falls short of establishing any contumacious conduct on the part of the appellant to attract penal provisions under Section 112(a) and 117 of the Customs Act, therefore the proceedings against the appellant were dropped; as the said importer has imported in past 15 consignments through the appellant at New Delhi, therefore, the proceedings were initiated against the appellant by issuance of the show cause notice dated

08.06.2021 to impose penalties under Section 112(a)(ii) and 117 of the Customs Act but the authorities below confirmed the penalty under Section 112(a) of the Customs Act. It is also submitted that another show cause notice dated 14.06.2021 was issued to the appellant for revoking of their courier license and forfeit the security deposit under Regulation 13(1) of CIER 2010 and penalty was also proposed under Regulation 14 of CIER 2010. The said show cause notice was adjudicated and proceedings against the appellant were dropped, in that circumstances, it is prayed that penalty on the appellant is not imposable

5. On the other hand, learned authorized representative for the department reiterated the findings of the impugned order.

6. Heard the parties and considered the submissions.

7. I find that in this case investigation started on 14.02.2018 on a live consignment imported by the importer at Mumbai, wherein, the appellant was also the courier agent of the importer and in that case, the penalty was also proposed against the appellant but the said proceedings were dropped holding that there is no involvement of the appellant for mis-declaration of the goods by the importer and proceedings initiated against the appellant by issuance of the show cause notice for revocation of the courier license also dropped holding that it has not been established that appellant was aware of wrong doing of the importer.

8. As it has already been held that there was no knowledge of the appellant of mis-declaration of description of the goods by the importer. In these circumstances, penalty under Section 112(a)(ii) of the Customs Act is not imposable on the appellant.

9. In view of this, I hold that penalty imposed against the appellant by way of impugned order is not warranted. Accordingly, the same is dropped; consequently, by setting aside the impugned order qua imposing penalty under Section 112(a)(ii) of the Customs Act is set aside.

8. In result, the appeal is allowed with consequential relief, if any.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Kailash