CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH - COURT NO. III

Customs Appeal No.55178 of 2023

[Arising out of Order-in-Appeal No.CC(A)CUS/DII/ICD/TKD/EXPORT/1083/2022-23 dated 15.11.2022 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi.]

M/s. Planet World Cargo,
K-363,Street NO.6C,
Mahipalpur Extension,
New Delhi-110 037.
....APPELLANT

Versus

Commissioner of Customs (Export),
Inland Container Depot, Tughlakabad,
New Delhi-110 020.
.....RESPONDENT

Appearance:
Present for the Appellant : Ms. Reena Rawat, Advocate
Present for the Respondent: Shri Vishwa Jeet Saharan, Authorised Representative.

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

Final Order No. 50838/2026

Date of Hearing/Decision:24.04.2026

BINU TAMTA:

1. The present appeal has been filed challenging the order-in-appeal [1] imposing penalty of Rs.10,00,000/- under Section 114(iii) of the Customs Act, 1962 on the appellant.

2. The facts of the case in brief are that appellant is a Customs Broker and in February, 2019, they filed 03 S/Bs for clearance of 'Self-Adhesive Vinyl Sheet' on behalf of M/s. Snive Worldwide, Bawana, New Delhi. During examination, it was found by DRI that the goods were of poor quality as

[1] No. No.CC(A)CUS/DII/ICD/TKD/EXPORT/1083/2022-23 dated 15.11.2022

compared to the declared FOB value in the S/Bs. Later, on testing by CRCL, it was found that though goods are self-adhesive but were not vinyl sheet.

3. Show cause notice dated 23.08.2019 was issued by Addl. Director, DRI to four entities including the appellant herein, in regard to export consignment of non-existent firm with fraudulently obtained IEC in the name of M/s.Snive Worldwide covered in three shipping bills all dated 21.02.2019 which were found to be mis-declared in description and value. The Customs Broker was found to have abetted the main accused Mr. Najib Abdulsattar Memon in his designs to export overvalued goods and gain under government benefits. The declared value of the goods in three shipping bills was Rs.2,83,34,591/-. Penalty under Section 114 of the Customs Act, 1962 for having abetted Mr. Abdul Sattar Memon was proposed to be imposed on the appellant.

4. The Adjudicating Authority held that the appellant had processed the export documents of the main noticee (M/s. Snive Worldwide, who did not turn up neither filed any reply) without knowing about their existence and without receipt of proper authorization. The appellant should have identified the precedents and antecedents of the main noticee and verified their existence. It was also held that the plea of noticee no.4 (appellant herein) that they were not benefitted form such fraudulent export was found to be not tenable. Further, it was held that the appellant was fully conscious about such fraudulent export and failed to discharge their obligations entrusted to them as per customs laws in order to get undue benefits. It was further held that appellant had connived with the Noticee No.2 (Mr. Najib) in fraudulent export of misdeclared and overvalued goods. Out of the noticees,

the appeal was filed only by the appellant and, therefore, the order-in-original had attained finality in respect to the other three noticees. The Commissioner (Appeals) considered the admission by the appellant that they did not meet the exporter and simply relied on Mr. Najib Abdulsattar Memon. It was held that the dereliction of appellant had facilitated the mischievous designs of Mr. Najib in attempt to get the misdeclared goods exported. The appeal filed was, therefore, dismissed. Being aggrieved, the appellant has filed the present appeal.

5. Heard both the sides and perused the case records.

6. The main submission of Ms.Reena Rawat, learned Counsel for the appellant is that penalty under Section 114 of the Customs Act cannot be imposed on any person, who in relation to any goods, does or omits to do any act, which act or omission would render such goods liable to confiscation under Section 113 or abets the doing or omission of such an Act. Learned Counsel submitted that the appellant is not responsible for the acts of the exporter and denied that there is an abetment on their part. In other words, the submission of the learned Counsel for the appellant is that penalty under the provisions of the Customs Act is not warranted once the Customs House Agent has been penalised under the provisions of Customs House Agent Licensing Regulations, 2004. She has referred to the following decisions in support of her submissions:-

1. **Commissioner of CUS.(Exports), Chennai versus I Sahaya Eden Prabhu**[2]
2. **Hira shipping solutions Private Limited versus Commissioner of CUS, Chennai – IB** [3]

[2] 2015 (320) ELT 264 (Mad.)

[3] 2022(382) ELT552 (Tri-Chennai)

3. Kunal Travels (Cargo) versus CC (I.G.), IGI Airport, New Delhi[4]

7. Shri Vishwajeet Saharan, learned Authorised Representative for the Department has referred to the Final Orders passed by this Tribunal in Customs Appeal No's.C/50734/2021 (Final Order No.51664/2025 date of decision 31.10.2025) and C/55177/2023 (Final Order No.51709/2025 date of decision 13.11.2025) by the Hon'ble President Bench (DB), New Delhi where the appellant Customs Broker has been found involved in various acts and omissions under the Customs Broker Licensing Regulations 2018 (CBLR for short) as well as under penalty provisions (Section 114AA) of the Customs Act, 1962. He also submitted that the present appeal also arose from the same investigation of bogus exports where the Customs Broker actively colluded with the main accused Mr. Najib Memon.

8. In the same matter where the appellant Customs Broker, M/s. Planet World Cargo was proceeded against under the Customs Act, 1962, the Division Bench vide their Final Order dated 13.11.2025 have held that the appellant was guilty of acts and omissions under the Customs Act, 1962 where the appellant had acted with malafide intentions.

9. From perusal of the decisions referred by the learned Counsel, I find that there is categorical finding in those cases that where the Custom House Broker has not actively colluded with exporters and there is no positive role in smuggling, the Custom House Broker cannot be penalised under the provisions of the Customs Act for failure to discharge his functions. Penalties

[4] 2017 (354) ELT 447 (Del.)

for the same are provided under the provisions of CBLR. In **Kunal Travels**, the Delhi High Court observed that no presumption could be made of CHA's deliberate act or intention to defraud since there was no evidence of their active facilitation of clearance of consignment. No *mens rea* could be inferred to defraud government for obtaining duty drawback through fraudulent transaction and therefore, the appellant cannot be faulted or punished in the manner it has been. The facts of the present case are absolutely distinguishable in view of the earlier decision of this Tribunal in the case of the appellant i.e. **Final Order No. 51709/2025 dated 13.11.2025**, where the impugned order had upheld the penalty of Rs.10 lakhs on the appellant under Section 114(iii) of the Act. The matter pertains to the three shipping bills dated 21.02.2019 filed in the name of M/s. KKS Export and Import, which were found to be mis-declared. Findings on the involvement of the appellant leading to confiscation of the goods have been recorded, which reads as:-

> **"9**. The appellant's submission that it was not required to examine the contents of the goods while filing the Shipping Bill would have been correct if the appellant had filed the Shipping Bill in good faith on an authorization from and having been engaged by the exporter. This is a case where the exporter was nowhere in picture and at the behest of Shri Najib, the appellant 5 C/55177/2023 filed benami (pseudonymous) Shipping Bills in the name of KKS. Therefore, the appellant was fully responsible for any fraud or mis-declaration in such shipping bills because it is a case of attempt by Shri Najib and the appellant to mis-declare and export goods which resulted in their being confiscated."

10. The contention which is now being raised by the appellant that no further penalty can be imposed under the provisions of Customs Act since penalty has already been imposed under the CBLR, 2018 has been specifically dealt with by the Bench, as under:-

> **"10.** The appellant's third contention that since a penalty has already been imposed under CBLR, no penalty can be imposed under section 114 (iii) of the Act also cannot be accepted. The penalty under CBLR for violation of various Regulations under CBLR and it has nothing to do with acts or omissions which rendered the export goods liable to confiscation for which penalty is imposable under section 114 of Act."

11. In view of the aforesaid findings, both on the involvement of the appellant and their liability under the Customs Act, I am of the opinion that there is no reason to differ with the view already taken by the Division Bench, which is binding on me.

12. Consequently, the impugned order is hereby affirmed and the appeal is dismissed.

[Operative portion of the order already pronounced in open court]

(BINU TAMTA)
Member (Judicial)

Ckp.