

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**
REGIONAL BENCH – COURT NO.1

Cus. Appeal No. 75072 of 2019

Arising out of Order-in-Appeal No.92/CUS/CCP-GST/2018 Dated 30.10.2018 passed by Commissioner (Appeals), GST, CX & Customs, Bhubaneswar.

M/s. Scan Steel Ltd.

Trishna Nirmalaya Plt No.
516/1723/3991, 2nd Floor Near
Patia Big Bazar PatiaBhubaneswar, Odisha
751024

Appellant (s)

VERSUS

Commr. of CGST & Central Excise, Bhubaneswar

C. R. Building, Rajaswavihar,
Bhubaneswar, 751007

Respondent (s)

APPEARANCE :

Shri K. K. Acharya, Advocate for the Appellant
Shri S. Mukhopadhyay, A. R. for the Respondent

CORAM:

HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)

ORDER NO.FO/76989/2019

Date of Hearing : 13 December 2019
Date of Decision : 13 December 2019

PER P. K. CHOUDHARY :

The present appeal has been filed by the appellant against Order-in-Appeal No.92/CUS/CCP-GST/2018 dt. 30/10/2018 passed by the Commissioner (Appeals).

2. Heard both sides and perused the appeal records.
3. The only ground which the impugned order is sought to be challenged is that the Ld. Commissioner (Appeals) while allowing the appeal filed by the Respondent Department erred in enhancing the penalty ignoring the mandate of regulation 5 of the Customs (Provisional Duty Assessment) Regulations 2011, in relation to the maximum penalty imposable against the defaulter. The Commissioner (Appeals) while allowing the appeal filed by the Department had enhanced the penalty to Rs. 50,000/- On perusal of Regulation 5, it is seen that it prescribes the maximum limit of penalty. The minimum amount of penalty has not been prescribed and has been left to the discretion of the authority. The

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expression "which may extend to" does not relate to the minimum amount of penalty but to the maximum amount of penalty which could be imposed.

4. In view of the above discussions, the impugned order is set aside and the order of the Adjudicating Authority is re-stored. Appeal filed by the appellant is thus allowed in the above terms.

(Dictated and pronounced in the open Court.)

Sd/-

(P. K. Choudhary)
Member (Judicial)

Pooja