IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75983 of 2019

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/16/2019 dated 21.01.2019 passed by the Commissioner of Customs(Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. Reach Infocom Technology Pvt. Ltd, **: Appellant**
Ideal Centre, 9, A. J. C. Bose Road,
1st Floor, Kolkata-700 017

VERSUS

Commissioner of Customs (Port), **: Respondent**
Custom House, 15/1, Strand Road,
Kolkata-700 001

APPEARANCE:

Shri Sukalpa Seal, Advocate for the Appellant

Shri S. Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76668/2025

DATE OF HEARING / DECISION: 18.06.2025

Order: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the redemption fine imposed has been enhanced to Rs.9,00,000/- (Rupees Nine Lakh only) and the penalty imposed has been enhanced to Rs.4,50,000/- (Rupees Four Lakh Fifty Thousand only).

2. The facts of the case are that the appellant is a Reach Infocom Technology private limited company engaged in the business of import and trading of mobile phones. The appellant has imported 25,500 pieces of "Reach Brand mobile phones.

The said goods were covered under Schedule-I of the E-Waste (Management) Rules, 2016, specifically listed as "electrical and electronic" under Code ITEW15, requiring compliance Extended Producer Responsibility (EPR).

3. The appellant, at the time of filing the Bill of Entry, was not aware of the mandatory requirement to produce an EPR Authorization Certificate from the Central Pollution Control Board (CPCB). Upon a query being raised with regard to EPR compliance, the appellant applied for an EPR Authorization and requested for provisional release of the goods, pending submission of such authorization.

3.1. The said request was not accepted by the Revenue and the goods were assessed finally, as the appellant had waived the Show Cause Notice, on 26.10.2017.

4. On 08.02.2018, the appellant obtained the EPR Authorization covering the period starting from 2017-18 to 2021-22, which covers the period when the appellant had filed the Bill of Entry.

5. The adjudicating authority, in his order, has confiscated the goods in question, allowing the same to be redeemed on payment of redemption fine of Rs.1,00,000/- (Rupees One Lakh only) under Section 125 of the Customs Act,1962 and also imposed a penalty of Rs.50,000/- (Rupees Fifty Thousand only) on the appellant under Section 112 of the Customs Act, 1962 with a view to make the importer more cautious in future. The appellant paid the duty, fine and penalty, and cleared the goods in question.

6. However, the Revenue preferred an appeal before the Ld. Commissioner (Appeals) for

enhancement of the redemption fine and penalty, who, without giving any notice of hearing to the appellant, enhanced the redemption fine to Rs.9,00,000/- (Rupees Nine Lakh only) and the penalty to Rs.4,50,000/- (Rupees Four Lakh Fifty Thousand only), by way of the impugned order.

7. Against the said order, the appellant is before us.

8. Heard the parties and have gone through the records placed before us.

9. We find that in this case, although the goods were requiring EPR compliance, which had not been done by the appellant at the time of filing the Bill of Entry, the appellant had sought provisional release of the goods, which request was denied. Later on, the appellant obtained the EPR Authorization on 05.02.2018 covering the period for which the appellant had filed the impugned Bill of Entry. In these circumstances, we are of the view that goods in question were not required to be confiscated.

10. Moreover, in the facts and circumstances of the case, the appellant was entitled to provisional release of the goods, in the interests of justice, but the Revenue has failed to do so.

11. In fact, later on, the appellant obtained the EPR Authorization covering the period in question and therefore, no redemption fine and penalty was imposable on the appellant. However, we observe that instead of waiving the redemption fine and penalty imposed on the appellant, the Ld. Commissioner (Appeals) has exceeded his jurisdiction, without adhering to the principles of natural justice.

12. In view of this, we do not find any merit in the impugned order and hence, the same is set aside.

13. As the redemption fine and penalty imposed stands set aside therefore, the appeal is allowed, with consequential relief, if any.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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