IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75341 of 2024

(Arising out of Order-in-Appeal No.KOL/CUS/CCP/KS/874/2023 dated 08.11.2023 passed by Commissioner of Customs (prev.), CCP, West Bengal, Kolkata)

M/s. Soubhik Export Ltd., **: Appellant**
7/1, Lord Sinha Road,
4th Floor, Room no. 409 & 411,
Kolkata-700 071.

VERSUS

Commissioner of Customs(Prev), **: Respondent**
3rd Floor, Customs House, 15/1 Strand Road,
Kolkata-700 001.

APPEARANCE:

Ms. Atika Sumran Ahmed, Advocate for the Appellant

ShriT.Sulaiman, Authorized Representativefor the Respondent

CORAM:

HON'BLE SHRI R.MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO. 75682/ 2026

DATE OF HEARING:10.06.2026

DATE OF DECISION: 10.06.2026

Order : [Per R.Muralidhar]

When the appeal was taken up for hearing, the Ld. Authorized Representative for the Revenue submits that the Commissioner (Appeals) has dismissed the appeal on the sole ground that the same was filed with a delay of 20 days after the normal period of 60 days had expired. Therefore, he submits that the matter may be remanded to the Commissioner (Appeal) for disposal on merits.

2. The Ld. Counsel appearing on behalf of the appellant submits that this is a case where the

appellant's truck has been seized in 2020 on which Redemption Fine has been imposed and penalty has been imposed on the appellant. She submits that since the vehicle seized is required for using in the business purpose, this may be viewed as a case of livelihood being affected by such confiscation. She prays that since the issue is already 6 years old, the Tribunal itself may be pleased to hear the case on merits and dispose of the matter. Finding her request to be reasonable, I have taken up the appeal itself for disposal with the consent of the Ld A R.

3. The Ld. Counsel submits that the appellant is engaged in transportation business. On 04.02.2020, for 60 MT crude rice bran oil imported by the importer M/s. Arghodeep Construction Pvt. Ltd., they filed the Bill of Entry No. 6743071 through their CHA. After the Customs Duty was paid, admittedly the goods were removed of the Customs area without the Out of Charge clearance being given by the Customs Officials. Only on this ground, Show Cause Notice was issued to the Importer, CHA and the present appellant who is the transporter. She submits that admittedly the full custom duty on account of 60 MT of crude rice bran oil has been paid by the Importer in respect of Bill of Entry No. 6743071 dated 04.02.2020. She submits that the importer has recorded the statement stating that he was not aware of the Custom procedures and based on documents submitted by the CHA including documents towards Customs Duty payment, he has advised the transporter to take out the goods out of the Customs area. He has accepted the provisions of Section 45/42(B) and Customs Act, 1962 were contravened by him. The Ld. Advocate submits that since the transporter was directed by the importer as

well as by the CHA, he had to obey their directions. The appellant was not aware that this would result in contravention of the provisions of Customs Act, 1962. She submits that since 2020 the vehicle of the appellant is in the custody of the Customs Department and the appellant is not in a position to carry on his transportation business, in the absence of this vehicle. She prays that the confiscation and consequent presumption filed may be set aside. She also prays that the penalty of Rs.1,00,000 imposed on the appellant may be set aside.

4. The Ld. Authorized Representative reiterated the detailed findings of the Adjudicating Authority. He submits that the appellant has not made any submissions before the Adjudicating Authority to absolve him of the contraventions alleged. Since he has moved out the vehicle without any proper authorization from Customs and without obtaining the Out of Charge report, the appellant is responsible for the contravention. Therefore, he justifies the confiscation / Redemption Fine and the penalty imposed on the appellant.

5. Heard both sides. Perused the records.

6. Admittedly, there is no dispute that the Custom duty in respect of the imported goods has been fully discharged by the importer. The importer has also taken up the responsibility about the direction given to the appellant in respect of the movement of the goods, which has resulted in moving out consignment without the Out of Charge being issued by the Customs officials. This shows that the present appellant who is the transporter, has simply followed the directions/instructions of the

importer and the CHA without waiting for the Out of Charge documents. While this is definitely a contravention on his part, I do not view it to be so serious as to confiscate his vehicle. It is not the case of the Dept that the vehicle was carrying any contraband, nor is there any case of restricted or prohibited goods movement issue. Therefore, finding no justification towards the confiscation, I set aside the confiscation and consequent Redemption Fine imposed by the lower authorities.

7. Now coming to the penalty imposed on the appellant, admittedly he has moved out the consignment without obtaining the Out of Charge documents, which is a contravention on his part. Though he might have moved out the vehicle as per the directions of the importer/CHA, still this has resulted in a contravention. Therefore, he is required to be imposed with penalty so that he would be more vigilant and careful in his future transactions.

8. I take the view that interest of justice would be served if the penalty is modified to Rs. 25,000. Accordingly, the penalty stands reduced to Rs.25,000

9. The appeal stands partly allowed as per the above terms.

(Dictated and pronounced in the open court)

(R.MURALIDHAR)
MEMBER (JUDICIAL)

RG