

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
MUMBAI**

REGIONAL BENCH - COURT NO. 02

**Customs Appeal No. 463 of 2012**

(Arising out of Order-in-Original No. 11/2012/CAC/CC/BKS/ dated 29.02.2012 passed by Commissioner of Customs (Adjudication), Mumbai)

**Avesh Hanif Pitodia**

A-602, Zia Apartment , 6<sup>th</sup> Floor,  
Belasis Road, Nagpada  
Mumbai – 400 008.

**.....Appellant**

*VERSUS*

**Commissioner of Customs  
(Adjudication), Mumbai**

New Custom House, Ballard Estate,  
Mumbai – 400 001.

**.....Respondent**

**Appearance:**

Shri Lawrence Tauro, Advocate for the Appellant

Ms. Trupti Chavan, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**

**HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/88568/2018**

Date of Hearing : 19.12.2018

Date of Decision : 19.12.2018

**Per: S.K. MOHANTY**

This appeal is directed against the impugned order dated 29.02.2012 passed by the Commissioner of Customs (Adjudication), Custom House, Mumbai, wherein penalties under Section 112(a) and

Section 114AA of the Customs Act, 1962 were imposed on the appellant.

2. The issue involved in this case relates to illegal import of mobile accessories by mis-using the IEC and import of counterfeit Nokia brand mobile chargers. The appellant along with Shri Shaikh Irfan Rashid run the business in the name of M/s. Cell On Traders, engaged in the business of importing mobile phone accessories and selling the same in the local market. In this case, the said firm had imported 'Mobile Phone Accessories' vide container No. INKE-2210306 and filed the Bill of Entry No. 973403 dated 25.08.2008 for clearance of the same before the Customs authorities. On examination of the goods, the department found that the description of 200 cartons of mobile chargers were differently mentioned inasmuch as the outer cover box was containing the mark as "CELL MAGIC" High Quality Travel Charger (input-ACP-12E:100-240V, 50-60Hz, 125mA), output-DC5.7V/800Ma), while the mobile chargers packed inside were having the marking as "Nokia" (AC-12E, input-100-240V, 50-60Hz/125mA), output-DC5 V/890mA), made in China. For examination and verification of the samples of the mobile chargers, the department issued summon to M/s. Nokia India Pvt. Ltd. The representative of the said company had confirmed that the sample of Nokia mobile charger was found to be counterfeit and the said chargers had not been manufactured in the premises of Nokia Corporation. The said representative had also confirmed that the Intellectual Property Rights of M/s. Nokia Corporation have been violated and as such, M/s. Nokia was desirous of joining the proceedings as per the requirement under Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. During the course of investigation, the department recorded statements of various persons, including the appellant herein. Show cause proceedings were initiated against the persons involved in illegal importation of the Mobile chargers. The impugned order was passed in confiscating the said goods and also imposing penalty on the appellant and others.

2. Heard both sides and perused the records.
3. The impugned order at paragraph 3.16 has discussed the role played by the appellant in importation of the counterfeit mobile chargers. On detailed investigation into the matter, the department has specifically observed that the appellant has not produced any documentary evidence to show that the counterfeit Nokia brand mobile chargers were not imported by it. Since, the subject goods are prohibited as per Rule 6 *ibid* and the appellant was instrumental in such importation of the goods, we are of the view that the impugned order cannot be interfered with at this juncture, in so far as it has imposed penalties on the appellant.
4. Therefore, we do not find any merits in the appeal filed by the appellant and accordingly, same is dismissed.

(Operative portion of the order pronounced in the open court)

**(S.K. Mohanty)**  
**Member (Judicial)**

**(Sanjiv Srivastava)**  
**Member (Technical)**