

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

**WEST ZONAL BENCH**

**CUSTOMS APPEAL NO: 87831 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-308/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Vinod Jain**

Jain Handicrafts, 23, 1<sup>st</sup> Floor,  
Aailshan Complex, Danilimda, Ahmadabad – 380 028

... *Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

... *Respondent*

APPEARANCE:

Shri R V Shetty and Shri S R Shetty, Advocates for the appellant

Shri Sydney D'Silva, Additional Commissioner (AR) for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88006 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-304/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Hakim Mohammed Rafiq**

Ahmed Joo Rare Jewels & Objects d' Art Pvt Ltd  
Opp: Corner Taj Mahal Hotel, Red Shield House  
Best Marg, Colaba, Mumbai - 400005

... *Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

... *Respondent*

APPEARANCE:

Shri Prithwiraj Chouhan, Advocate and Ms Taniya, Chartered Accountant for the appellant

Shri Sydney D'Silva, Additional Commissioner (AR) for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88015 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-306/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Udit Jain**

14-A DDA Flats, Taimoor Enclave  
New Friends Colony, Behind Gurudwara,  
New Delhi - 110065

*... Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*...Respondent*

**WITH**

**CUSTOMS APPEAL NO: 88016 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-305/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Devesh Goel**

F-26, Lajpat Nagar – III, New Delhi- 110028

*... Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*...Respondent*

APPEARANCE:

Shri G B Yadav, Advocate for the appellants

Shri Sydney D'Silva, Additional Commissioner (AR) for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88018 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-310/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Manoj Kumar, S/o Atar Singh**

R/o 89, Village Tor Danial, Dholpur,  
Rajasthan – 328001

*... Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*...Respondent*

APPEARANCE:

Shri G B Yadav and Ms Pooja Yadav, Advocates for the appellants

Shri Sydney D'Silva, Additional Commissioner (AR) for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88032 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-307/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Vijay Nanda**

Flat No. 22, Krishna Kunj, 2-30, K.M. Munshi Marg,  
Chowpatty Road, Mumbai – 400007

*... Appellant*

*versus*

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*...Respondent*

APPEARANCE:

Shri Vipin Jain, Shri A Sheerazi and Shri P Satish, Advocates for the appellant

Shri Sydney D'Silva, Additional Commissioner (AR) for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88117 OF 2019**

**&**

**CROSS-OBJECTION NO. 85069 OF 2020**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-304 to 3107/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*... Appellant*

*versus*

**Udit Jain**

14-A DDA Flats, Taimoor Enclave  
New Friends Colony, Behind Gurudwara,  
New Delhi - 110065

*...Respondent*

APPEARANCE:

Shri Sydney D'Silva, Additional Commissioner (AR) for the appellant

Shri G B Yadav, Advocate for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88120 OF 2019**

**WITH**

**CROSS-OBJECTION NO. 85316 OF 2020**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-304 to 3107/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*... Appellant*

*versus*

**Vijay Nanda**

Flat No. 22, Krishna Kunj, 2-30, K.M. Munshi Marg,  
Chowpatty Road, Mumbai – 400007

*...Respondent*

APPEARANCE:

Shri Sydney D'Silva, Additional Commissioner (AR) for the appellant

Shri Vipin Jain, Shri A Sheerazi and Shri P Satish, Advocates for the respondent

**WITH**

**CUSTOMS APPEAL NO: 88121 OF 2019**

[Arising out of Order-in-Appeal No: MUM-CUSTM-PREV-APP-307/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

*... Appellant*

*versus*

**Pushpender Kumar**

R/o 89, Village Tor Danial, Dholpur,  
Rajasthan – 328001

*...Respondent*

**AND**

**CUSTOMS APPEAL NO: 88122 OF 2019  
WITH  
CROSS-OBJECTION NO. 85084 OF 2020**

[Arising out of Order-in-Appeal No: MUM-CUSTOM-PREV-APP-307/19-20 dated 25<sup>th</sup> July 2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

**Commissioner of Customs (Preventive)**

New Customs House, Ballard Estate, Mumbai - 400001

... *Appellant*

*versus*

**Manoj Kumar, S/o Atar Singh**

R/o 89, Village Tor Danial, Dholpur,  
Rajasthan – 328001

... *Respondent*

APPEARANCE:

Shri Sydney D'Silva, Additional Commissioner (AR) for the appellant

Shri G B Yadav, Advocates for the respondent

**CORAM:**

**HON'BLE MR S. K. MOHANTY, MEMBER (JUDICIAL)  
HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**

**FINAL ORDER NO: A / 86097-86106/2023**

DATE OF HEARING:

05/01/2023

DATE OF DECISION:

04/07/2023

PER: C J MATHEW

We have before us six aggrieved persons who are dissatisfied that their appeals, against the confiscation of 47 antiques valued at ₹ 3,95,50,000, six antique paintings valued at ₹ 87,00,000, three consignments of antiques valued at US\$ 2515 (peculiarly denominated because these were not available in India but alleged to

have been exported), five consignments as well as one consignment of wooden furniture re-valued at ₹ 2,11,34,250 and at ₹ 11,92,500 respectively, antique jewelry valued at ₹ 90,000 and antique jewelry/coins and statue of Lord Ganesha valued at ₹ 6,00,000 and/or various penalties imposed on them under section 114 of Customs Act, 1962 and section 114AA of Customs Act, 1962 in consequence, obtained for them only insignificant reduction in penalties; the allowances made, and contested, by Revenue are supported through cross-objections by three of the appellants. That order<sup>1</sup> of Commissioner of Customs (Appeals), Mumbai – III dated 25<sup>th</sup> July 2019 is now impugned here.

2. Two of the impugned lots were seized in the country, two lots already exported, and comprising furniture, were re-valued and three lots already exported did not suffer either consequence. Revenue is in appeal against order of the first appellate authority setting aside/reducing of penalties imposed and confiscation ordered by the original authority.

3. The impugned order has categorized the impugned goods into six categories and as the issues in appeal, one way or the other, relate to detriments that were not abated or to reliefs granted upon the finding on the confiscability of these categories of impugned goods, it would be appropriate to set them out along with the facts pertaining

---

<sup>1</sup>[order-in-appeal no. MUM-CUSTM-PREV-APP-304-310/19-20 dated 25<sup>th</sup> July 2019]

thereto. At the centre of the controversy is Shri Vijay Nanda who describes himself as a passionate collector of artifacts and antiques while disclaiming any inclination to trade in these for which he evidences his forbearance in obtaining licences under section 5 and section 7 of Antiquities and Art Treasures Act, 1972. The other *persona* have been held to be connected with one or more of these categories.

4. The first category comprises 39 wooden architectural objects, six stone sculptures and two articles, viz., a terracotta monkey on a crocodile and a bronze figure of a hunter/warrior, that were reported by the Archaeological Survey of India to be antiques, which were seized from the premises of Shri Vijay Nanda and the confiscation thereof was set aside by the first appellate authority. Revenue is in appeal against the lifting of confiscation of these goods.

5. The second category are six paintings that were alleged to be antique in the possession of Shri Hakim Mohammed Rafiq

6. The third category comprises one bronze statue of Lord Ganesha, one sandstone statute alleged to represent Goddess Parvati, and seven rings made of gold that were allegedly concealed in a consignment of artificial jewelry which had been held to be only liable to confiscation under section 113(d), 113(h) and 113(i) of Customs Act, 1962 by the original authority, owing to non-availability

and on the finding that these were antique pieces that had been exported, and penalty imposed on Shri Vijay Nanda under section 114 and 114AA of Customs Act, 1962 that was reduced to ₹ 35,00,000 by the first appellate authority while setting aside the other penalty as well as the finding that the bronze statue and sandstone statue were not antiques while upholding the confiscation for the other two breaches of section 113 of Customs Act, 1962 and upholding the confiscation in entirety of the seven rings. The value of the bronze statue was not re-determined while that of ₹ 38,00,000 of the sandstone statue had been founded on the statement of Shri Udit Jain that was subsequently retracted with the admission that it merely resembled similar replicas of sandstone made at his factory in NOIDA and which the expert from Archaeological Survey of India (ASI) reported as not being an antique. The seven rings were also held to be antique on the basis of statement of Shri Udit Jain, despite subsequent retraction, who was involved in procuring these from Shri Romeo Jain as well as on the statements of co-noticees, Shri Pushpender Kumar and Shri Romeo Jain, and 'Whats App' chats in the phone of Shri Udit Jain who was required therein, by Shri Vijay Nanda, to be picked up the said pieces from Shri Romeo Jain for shipping to a party in Hong Kong through M/s Sunrise Overseas. Shri Udit Jain was held as having abetted the illicit export against airway bills dated 14<sup>th</sup> November 2014, 10<sup>th</sup> August 2016 and 29<sup>th</sup> June 2016 and by

procuring these from one Shrikant Omkaran, Shri Manoj Jain and Shri Romeo Jain respectively. The first appellate authority reduced the penalty of ₹ 50,00,000 imposed by the original authority under section 114 of Customs Act, 1962 to ₹ 35,00,000 while setting aside the penalty of ₹ 1,00,00,000 imposed under section 114AA of Customs Act, 1962.

7. The fourth category comprises five consignments of wooden furniture exported through Inland Container Depot (ICD) Tughlakabad and one consignment of wooden furniture exported from Air Cargo Complex, Delhi and which, not being available, were held liable for confiscation under section 113(h) and 113(i) of Customs Act, 1962, on the finding of undervaluation that relied upon a statement of Shri Devesh Goel, along with penalties imposed on Shri Vijay Nanda under section 114 and 114AA of Customs Act, 1962 of which the latter was set aside and the former reduced to ₹ 1,05,00,000 from ₹ 2,20,00,000 in the impugned order.

8. In the fifth category is one Bishnoi nose ring valued at ₹ 90,000 which were said to have been procured from Shri Pukhraj Surana that, being unavailable, was held liable to confiscation under section 113(d), 113(h) and 113(i) of Customs Act, 1962, even though in the absence of any document purporting to record export of the article, and penalties imposed under section 114 of Customs Act, 1962 on

Shri Vijay Nanda that was reduced to ₹ 1,00,000 from ₹ 1,50,000 in the impugned order.

9. Likewise, the sixth category is a consignment, valued at ₹ 6,00,000, consisting of antique jewelry/coin and one statue of Lord Ganesha, said to have been procured from Shri Vinod Jain and, being unavailable, was held liable to confiscation under section 113(d), 113(h) and 113(i) of Customs Act, 1962 even though in the absence of any document purporting to record export of the article for imposition of penalties under section 114 of Customs Act, 1962 on Shri Vijay Nanda that was reduced to ₹ 5,00,000 from ₹ 12,00,000 in the impugned order. The penalty of ₹ 12,00,000 imposed on Shri Vinod Jain under section 114 of Customs Act, 1962 was reduced to ₹ 5,00,000 by the first appellate authority against which he is in appeal.

10. We have heard the submissions made on behalf of Shri Vijay Nanda and Shri Hakim Mohammed Rafiq whose goods continue to be impugned, either in the appeal of Revenue or that of the latter, as well as on the challenge to penalties continued against them and the appeal against the penalties, reduced or otherwise, on the others. The penalties are a consequence of the goods held to have been that of Shri Vijay Nanda and exported either illegally in breach of Antiquities and Art Treasures Act, 1972 out of the country or, by undervaluation, as in the consignments of furniture as well as the bronze statues of

Lord Ganesha and Goddess Parvati. The single consignment belonging to Shri Hakim Mohammed Rafiq was confiscated and penalty imposed thereto. The appeals of Revenue lie against the revocation of confiscation of goods seized from Shri Vijay Nanda and the dilution of penalties imposed on him and others. It would, therefore, be appropriate to dispose off the issue of confiscability of the goods exported and those seized in India before proceeding to the penalties arising therefrom.

11. Instead of setting out the submissions made on behalf the individuals and Revenue, we intend to refer to them at the appropriate stages to the extent warranted.

12. As far as the paintings seized from the possession of Shri Hakim Mohammed Rafiq and the 39 pieces seized from the premises of Shri Vijay Nanda are concerned, the notice had invoked

*'3. Regulation of export trade in antiquities and art treasures.*

*– (1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorised by the Central Government in this behalf, to export any antiquity or art treasure.*

*(2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a*

*permit issued for the purpose by such authority as may be prescribed'*

under the authority of

*'4. Application of Act 52 of 1962 – The Customs Act, 1962 (52 of 1962), shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorized by the Central Government) is prohibited under section 3 save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorised under that Act shall be made unless the Central Government on an application made to it in this behalf, otherwise directs.'*

of Antiquities and Art Treasures Act, 1972. At this stage, it may be necessary also to refer to

*'125. Option to pay fine in lieu of confiscation. – (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:....'*

of Customs Act, 1962.

13. We do not have to venture ourselves into the relationship between the two statutes as the Hon'ble Supreme Court, in *Department of Customs v. Sharad Gandhi [2019 (366) ELT 10 (SC)]*, has given an elaborate rendering thus

*'17. .... When the legislature makes a law, the presumption is that it is aware of all existing laws. The Court does not begin with a presumption of ignorance. The Act in question, would indeed furnish a lucid illustration of the aforesaid principles. The legislature was fully conscious that the Customs Act, 1962 exists on the statute book. The legislature was conscious of its operation and it wanted to articulate the manner in which both laws were to co-exist. It is accordingly that in Section 4 it has expressly provided that the Customs Act shall apply in relation to all antiquities and art treasures, the export of which by any person other than the Central Government or authorized or agency is prohibited under Section 3 of the Act. The only area where it tabooed the application of the Customs Act is where the Act contains provisions which were irreconcilable being inconsistent with the Antiquities Act. Equally, it also expressly provided for the situation that any confiscation, notwithstanding Section 125 of the Customs Act thereof, shall be made in regard to antiquities and art treasure unless on an application made to the Central Government, it otherwise directs. Section 125 of the Customs Act is a provision which enables the officer adjudging the confiscation proceedings to give an option to pay a fine in lieu of confiscation. The obvious intention of the legislature is to provide that once an order for confiscation is passed under the Customs Act in respect of antiquities or art treasure the powers ordinarily*

*available under Section 125 of the Customs Act will not be available.*

xxxx

*40. Section 4 of the Antiquities Act, it must be remembered, has already provided for the applicability of the Customs Act in the manner which we have already explained. In other words, the Customs Act is applicable subject to two qualifications. Firstly, it will apply except where the provisions of the Customs Act are inconsistent with the provisions of the Antiquities Act. In other words, if there are provisions in the Antiquity Act, which are inconsistent with the Customs Act, the provisions of the Antiquity Act will prevail over the Customs Act.*

*41. The Second limitation on the applicability of the Customs Act is as regards the specific provisions contained in Section 125 and an option ordinarily made available under Section 125 is not to be extended as provided in Section 4 of the Act.'*

in disposing off an appeal of the Indian Customs against judgement denying authority to prosecute an offender under the Antiquities and Art Treasures Act, 1972 by recourse to section 132 and 135 of Customs Act, 1962 and even though the issue before us is limited to confiscation which was not a matter of concern in that dispute.

14. From that exposition, we gather that the combination of the several provisions is to be read harmoniously and not as intended to confer authority, under Antiquities and Art Treasures Act, 1972, upon officers of customs. Officers of customs are empowered to act, under the

authority of the statute intended for frontier policing of goods in both directions, in customs areas and, even outside such areas, in relation to imported (which is not of relevance for antiques or art treasures) and exported goods. Furthermore, to draw authority under the aegis of the Antiquities and Art Treasures Act, 1972, the goods concerned will have to be 'antiques' or 'art treasures', and, in the absence of any definition in Customs Act, 1962, within the meaning assigned to those expressions in Antiquities and Art Treasures Act, 1972. Without primary ascertainment, there can be no finding of prohibition on export that could trigger the jurisdictional competence of customs officers.

15. We find that, except for two objects found in possession of Shri Vijay Nanda, there is no whiff of 'antiques' by an authority competent under the Antiquities and Art Treasures Act, 1972 in relation to the goods that were proceeded against while yet in India. Additionally, none of these goods were found to have entered a customs area or even entered for export under section 50 of Customs Act, 1962. In such circumstances, and in the absence of lawful authority for presumptive finding of illicit activity, as in section 123 of Customs Act, 1962, it would be travesty of law to proceed on such assumption; indeed, such an act on the part of the customs officials would be tantamount to interference with possession that is entirely legal within the domestic jurisdiction. In any case, the provisions of section 4 of Antiquities and Art Treasures Act, 1972 does not extend to reasonable belief of being

antiques but of being antiques and, absent a definitive finding of such, invoking of section 113 of Customs Act, 1975 is not to be countenanced. In *T Muthukumar v. Commissioner of Customs, Chennai (Exp)* [2014 (302) ELT 431 (Tri-Chennai)], the Tribunal had not only set aside the confiscation of goods suspected to be antiques for inconclusive evidence of coverage under Antiquities and Art Treasures Act, 1972, to be established by duly empowered authority in terms of section 25 of that statute, but also held that return to the domestic territory sufficed as consequence of suspicion taken to its logical conclusion. In the dispute before us, the goods being well within the domestic territory merit no action on suspicion generated in the mind of customs officials. Consequently, we find no flaw in the finding of the first appellate authority insofar as the goods seized from Shri Vijay Nanda are concerned. At the same time, we take note of an inconsistency in the impugned order that has taken a contrary stand in relation to the painting seized from the possession of Shri Hakim Mohammed Rafiq. The only reason adduced therein is that the holder of the impugned goods had associated with some persons connected with international trade in such goods. If every act were to be adjudged by the company that a protagonist keeps, there is likely to be pervasive illegality all around us. The law does not countenance legal detriment on such remotely circumstantial findings. The goods were seized in no less identical circumstances and there is no definitive finding that these were that

aged; even if there was, the only charge could be non-registration and not attempt to export. The impugned order has erred in upholding confiscation of the six paintings under section 113 of Customs Act, 1962.

16. The other goods impugned in this appeal have allegedly been spirited out of the country except that of the 'furniture' which were, admittedly exported. The absence of those goods in the possession of Shri Vijay Nanda after acquisition by him, which itself is based on statements rendered by co-noticees that were subsequently retracted, has been presumed against him. As we have noticed *supra*, such presumption does not exist in the law for any class of goods; we are also unable to comprehend the jurisdiction assumed by the lower authorities in holding Shri Vijay Nanda answerable, and accountable, to any statutory authority for any acquisition made by him. Even the acquisition is, itself, a presumption inferred from statements that either remain untested, under section 138B of Customs Act, 1962, or were retracted. Neither is there any documentary evidence of such export.

17. Still continuing in the factual vein, and this includes the furniture which were, admittedly, exported and subjected to re-determination of value, a question does arise if goods outside the territory of India can be proceeded against for confiscation or re-determination of value. Goods are exported against shipping bills to conform to the requirement for

entry under section 50 of Customs Act, 1962 and, in terms of section 51, except when goods have been granted clearance despite being prohibited or not having discharged the full duty liability, a finality occurs insofar as the goods are concerned owing to section 2 (18) and 2 (20) of Customs Act, 1962. It is, therefore, impossible to conjecture, absent certification that those very goods are 'antiques', the invoking of 'attempted to be exported' in section 113 (d) of Customs Act, 1962 or their presence in the export consignment of the past to warrant invoking of section 113 (h) and 113 (i) of Customs Act, 1962. Ironically, the customs authorities did not, also, consider invoking section 113 (e ), 113(f) and 113 (g) without which, even by assuming that 'antiques' had been taken out of the country under the guise of other goods, would precede culmination of exports. It is apparent that the lower authorities were not entirely certain about the conclusiveness of their findings; a superstructure of detriments erected on such unstable foundation is bound to come tumbling down. Even the saving grace of preponderance of probability is lacking in the facts set out in the notice issued under section 124 of Customs Act, 1962.

18. Admittedly, there are no duties leviable on export of the impugned goods. The declaration under section 50 of Customs Act, 1962 on export of the two consignments of furniture was taken to its logical conclusion by the mechanism of section 17 of Customs Act, 1962 which is commenced with determination of rate of duty as set out in

section 12 of Customs Act, 1962. At that stage, absence of rate of duty concludes the process of assessment as, except when mandated by any other law, section 14, for ascertainment of declaration of value, can be set in motion only for the purposes of Customs Tariff Act, 1975. No ground has been adduced in the notice that some other law mandates determination of value and it is not the case of customs authorities that rates have been prescribed in the Schedule to Customs Tariff Act, 1975 for such goods. In these circumstances, the re-determination of value on export of 'furniture' is without authority of law.

19. On the factual matrix itself, we have been able to conclude as *supra*. The decisions cited by either, and all, sides are not required to be referred to except for that enunciated by us in our findings. The provisions of law suffice for disposal of the appeals. As the ordering of confiscation, or penal liability thereon, and re-determination of value are beyond the authority of customs officials, both those consequences do not sustain. Accordingly, recourse to penal provisions also fails.

20. Appeals of the individual-appellants are allowed and appeals of Revenue are rejected. Cross-objections are disposed off.

*(Order pronounced in the open court on 04/07/2023)*

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

*\*/as*

**(C J MATHEW)**  
**Member (Technical)**