CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85599 OF 2023

[Arising out of Order-in-Original No: AHM-CUSTM-000-COM-034-35-22-23 dated 07th March 2023 passed by The Commissioner of Customs, Ahmadabad.]

Cappithan Agencies
CCBA Building, Ground Floor, IG Road,
Willingdon Island, Cochin, Kerala- 682 009 … ***Appellant***

versus

Commissioner of Customs (Import)
Jawaharlal Nehru Custom House
Nhava Sheva, Tal: Uran, Dist: Raigad - 400 707 ***…Respondent***

WITH

CUSTOMS APPEAL NO: 85600 OF 2023

[Arising out of Order-in-Original No: AHM-CUSTM-000-COM-034-35-22-23 dated 07th March 2023 passed by The Commissioner of Customs, Ahmadabad.]

Viju Gropinathan Nair
CCBA Building, Ground Floor, IG Road,
Willingdon Island, Cochin, Kerala- 682 009 … ***Appellant***

versus

Commissioner of Customs (Import)
Jawaharlal Nehru Custom House
Nhava Sheva, Tal: Uran, Dist: Raigad - 400 707 ***…Respondent***

APPEARANCE:

Shri N D George, Advocate for the appellants

Shri Ram Kumar, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 86201-86202/2024

DATE OF HEARING:	07/10/2024
DATE OF DECISION:	07/10/2024

PER: C J MATHEW

M/s Cappithan Agencies, a customs broker; and Shri Viju Gopinathan, authorised person of M/s Cappithan Agencies, are before us against order[1] of Commissioner of Customs, Ahmedabad imposing penalties of ₹ 30,000 under section 112 of Customs Act, 1962 and ₹ 15,000/- under section 114AA of Customs Act, 1962 on M/s Cappithan Agencies and penalties of ₹ 15,000 under section 112 of Customs Act, 1962 and ₹ 8,000/- under section 114AA of Customs Act, 1962 on Shri Viju Gopinathan Nair in connection with proceedings initiated against M/s Arta Brock Ceramics Pvt Ltd for imports effected at Nhava Sheva. It is seen that the offence is said to have arisen with consequence of differential customs duty of ₹ 5,67,636 and penalty upon confiscation of goods valued at ₹ 33,46,911 under section 111(m) of Customs Act, 1962.

2. Learned Counsel for the appellants submitted that the impugned order of adjudicating authority, *viz.*, Commissioner of Customs, Ahmedabad, had concluded the proceedings initiated by two show cause notices and in accordance with the empowerment of common

[1] [order-in-original no. AHM-CUSTM-000-COM-034-35-22-23 dated 7th March 2023]

adjudication. He further submitted that the principal appeal[2] against the very same order[3] impugned in this appeal pertaining to the classification of the goods was disposed off by the Tribunal[4] setting aside the revised classification. It was further submitted that with the conclusion in that proceedings the penalty imposed on the appellant herein should also stand extinguished.

3. We have heard Learned Authorised Representative.

4. Considering that the cause for confiscation under section 111(m) of Customs Act, 1962 had been negated by the Tribunal, the imposition of penalty on the appellant herein under section 112 and 114AA of Customs Act, 1962 does not survive.

5. Accordingly, the impugned order is set aside and to allow the appealS.

(Operative part of the order pronounced in the open court on 7th October 2024)

(AJAY SHARMA)	**(C J MATHEW)**
Member (Judicial)	***Member (Technical)***

**/as*

[2] [C/10389/2023-DB]
[3] [order-in-original no. AHM-CUSTM-000-COM034-35-22-23 dated 7th March 2023]
[4] [final order no. 11378-11384/2024 dated 18th June 2024]