CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Customs Appeal No. 85769 of 2022

(Arising out of Order-in-Appeal No. MUM-CUSTM-APSC-APP-1280/2021-22 dated 13.12.2021 passed by the Commissioner of Customs (Appeals), Mumbai-III)

Shilpin Naresh Shah **Appellant**
202, Kruti Apartments,
2nd Floor, Near Megna Park,
City Light, Surat 395 007.

Vs.

Commissioner of Customs, Air Special Cargo Mumbai **Respondent**
6th Floor, Awas Corporate Point, Makwana Lane,
Andheri-Kurla Road, Behind SM Centre,
Air Cargo Complex, Sahar,
Andheri (E), Mumbai 400 059.

Appearance:

Shri H.R. Shetty, Advocate, for Appellant
Shri L.B. D'Coasta, Deputy Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 07.05.2025
Date of Decision: 07.05.2025

FINAL ORDER No. 85799/2025

Brief facts of the case are that the appellant imported a consignment which was declared to be documents but when the consignment was opened, it was found that the consignment contained few papers along with three small packets of stone like items. The said stone like items were forwarded by the custodian to PCCC(APSC) for identification and valuation. As per the valuation certificate issued by the Government approved valuer, the said stone like items were 254 pieces of gem quality synthetic rough diamonds totally weighing 143.45 carats having a total value of Rs.5,62,480/-. On 15.11.2018 the consignment was seized. Investigations were carried on. Through letter dated 25.04.2019 appellant requested the lower authority to decide the matter without issue of any show cause notice. The matter was adjudicated through order-in-original dated 25.09.2020 wherein the original authority has held that it was a case of misdeclaration of goods. The original authority confiscated the seized goods and allowed redemption of the same on payment of fine of Rs.5,00,000/- under Section 125 of Customs Act, 1962. Further, the original authority imposed penalty of Rs.50,000/- under Section 112(a)(ii) of Customs Act, 1962 on the appellant. In addition, the original authority imposed a penalty of Rs.6,00,000/- on the appellant under Section 114AA of Customs Act, 1962. Aggrieved by the said order, appellant preferred appeal before Commissioner (Appeals) who decided the appeal through impugned order-in-appeal. Learned Commissioner (Appeals) has held that imposition of fine and penalty by the original authority was too harsh and, therefore, he reduced redemption fine from Rs.5,00,000/- to Rs.3,00,000/- and reduced penalty imposed under Section 114AA from Rs.6,00,000/- to Rs.3,00,000/-. Aggrieved by the said order, appellant is before this Tribunal.

2. Heard the learned counsel for the appellant. Learned counsel for the appellant has submitted that the consignment was declared to be documents whereas on opening, it was found to contain synthetics rough diamonds. He has further submitted that learned Commissioner (Appeals) has reduced the redemption fine and personal penalty and he is before this Tribunal to seek further reduction in redemption fine and penalty.

3. Heard the learned AR who has submitted that misdeclaration by the appellant is established in this case and no further lenient view is deserved in the present case.

4. I have carefully gone through the record of the case and submissions made. I find that the appellant had imported synthetic rough diamonds by declaring the same as documents. I also find that learned Commissioner (Appeals) has shown leniency and reduced redemption fine and penalty imposed by the original authority. I do not find any case to further reduce redemption fine and penalty.

5. I, therefore, reject the appeal and affirm the impugned order-in-appeal.

(Pronounced in the court)

(Anil G. Shakkarwar)
Member (Technical)

tvu