CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86804 OF 2022

[Arising out of Order-in-Appeal No: 408 (Gr.III)/2022(JNCH)/Appeals dated 10th May 2022 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Titanium Ten Enterprises Ltd
901 & 914 Rajhans Complex, Ring Road
Surat – 395002 … ***Appellant***

versus

Commissioner of Customs
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

APPEARANCE:

Shri Anil Balani, Advocate for the appellant

Shri Krishna Azad, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85844/2025

DATE OF HEARING:	15/05/2025
DATE OF DECISION:	15/05/2025

This appeal lies against fees of ₹ 4,33,446 devolving on M/s Titanium Ten Enterprises Ltd charged for 'late filing' of bill of entry no. 7080859/02.03.2020 that, upon challenge, was affirmed by dismissal of their appeal *vide* order[1] of Commissioner of Customs (Appeals), Mumbai – II.

2. Learned Counsel for appellant submitted that they had filed 'advance' bill of entry no. 6359527/06.01.2020 which should, ordinarily, have been transformed as 'regular' bill of entry but was, for some inexplicable reason, compelled to be substituted by fresh entry under section 46 of Customs Act, 1962 for clearance of '100% polyester filament yarn' imported by them. Learned Counsel further submitted that the detriments devolved on them as consequence of problem in the system[2], as recorded by the lower authorities and over which they had no control, which precluded invoking of prescriptions in Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2018.

3. Learned Authorized Representative submitted that the appellant should have been diligent and, by failing to keep track of bill of entry, had not taken steps as set out in public notice[3] of the Jawaharlal Nehru Customs House (JNCH), Nhava Sheva for regularization of 'advance' bill of entry.

4. There is no doubt that the appellant had reacted belatedly in dealing with the cargo imported by them. Nonetheless, to tackle

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[1] [order-in-appeal no. 408 (Gr.III)/2022(JNCH)/Appeals dated 10th May 2022]
[2] [Indian Customs Electronic System (ICES)]
[3] [no. 84/2017 dated 28th June 2017]

inability of electronic system to remedy of itself, ‘trigger’ of ‘due notice’ to persons concerned was the responsibility of customs authorities and it would be improper for the charges to be devolved on the importer merely from failing, for that reason, to set in motion the procedure in public notice. Though importers are required to comply with provisions of law, stipulations in regulations and contents of public notice, at no stage is there disavowal the contention that bill of entry filed in advance had failed to be regularized by the system. There is no fault attributable to the importer and, more especially, as recourse was not had to disposal under section 48 of Customs Act, 1962 either by proper officer or by custodian with permission of proper officer.

5. In the light of above it would be inappropriate to sustain charges for late filing.

6. Accordingly, the impugned order is set aside.

(Dictated and Pronounced in Open Court)

(C J MATHEW)
Member (Technical)

**/as*