CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 5

CUSTOMS APPEAL NO. 87767 OF 2023

(Arising out of Order-In-Appeal No. MUM-CUSTM-AMP-APP-1964-21-22 dated 23.03.2022 passed by Commissioner of Customs (Appeals).)

M/s. PRAGYA OCEANIC SHIPPERS PVT LTD
A/27, Kirti Nagar, Opp. Kamal & Company,
Tonk Road, Jaipur,
Rajasthan-302 018.

Appellant

Vs.

COMMISSIONER OF CUSTOMS(IMPORT)-MUMBAI(AIR CARGO IMPORT)
Air Cargo Complex, Navpada,
Sahar Village, Andheri (E),
Mumbai,
Maharashtra-400 099.

Respondent

Appearance:
Shri Anil Balani, Advocate for the Appellant.

Shri C.S. Vinod, Assistant Commissioner, Authorized Representative for the Respondent.

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

Date of Hearing: 16.07.2025
Date of Decision: 16.07.2025

FINAL ORDER NO :- A/86143/2025.

Brief facts of the case are that the appellant is a customs broker who filed seven bills of entry during the period from 25.06.2018 to 07.08.2018 for clearance of knitted fabrics for importer M/s. J.N. Enterprises. The classification claimed for clearance of said goods through the said bills of entry was 6006900 attracting 10% of basic customs duty. After investigation a show cause notice was issued on 26.02.2021 both to importer and present appellant wherein an allegation was made that in place of 20% basic customs duty leviable on the goods, the bill of entry has claimed classification that has attracted 10% of basic customs duty. The Original Authority adjudicated the said show cause notice and imposed penalty of Rs. 2,00,000/- on the present appellant under section 117 of Customs Act, 1962. On preferring appeal before learned Commissioner (Appeals), the Learned Commissioner (Appeals) through impugned Order-In-Appeal dated 23.03.2022 reduced penalty from Rs. 2,00,000/- to Rs. 1,00,000/-. Aggrieved by the said order, appellant is before this Tribunal.

2. Heard the learned counsel for the appellant. He has submitted that claiming a specific classification is not the duty of customs broker and also that dispute on classification is neither an offence or mis-declaration. He has also submitted that Original Authority did not point out as to which provisions of Customs Act were violated by the appellant to attract penalty under section 117 of Customs Act, 1962.

3. Heard the learned AR. He has agreed that in paragraph 18 of concerned Order-In-Original, original authority has not stated as to which provision of Customs Act was violated by the present appellant.

4. I have carefully gone through the record of the case and submissions made regarding provisions of Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provides for imposition of penalty on a person who contravenes on any provisions of Customs Act, 1962 where no penalty has been expressly provided. I have also gone through paragraph 18 of the Order-In-Original and find that Original Authority has not mentioned as to which provision of Customs Act was violated by the present appellant. I, therefore, set aside the penalty imposed on the appellant and allow the appeal.

(Dictated and pronounced in open court.)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)

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