CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH

Customs Appeal No. 87232 of 2019

(Arising out of Order-in-Original No. 16/2019-20/Commr/MS-II/JNCH dated 22.05.2019 passed by the Commissioner of Customs (NS-II), JNCH, Nhava Sheva)

Consolidated Shipping Line I Pvt Ltd. .....**Appellant**
1008, Lodha Supremus, Saki Vihar Road
Andheri East, Mumbai

VERSUS

Commissioner of Customs, Nhava Sheva II .....**Respondent**
JNCH, Nhava Sheva

APPEARANCE:

Shri G B Yadav, Advocate for the appellant
Shri D S Mann, DC (AR) for the respondent

CORAM:
HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER No: 86157/2025

DATE OF HEARING : 22.04.2025
DATE OF DECISION : 30.07.2025

Per: AJAY SHARMA

This appeal has been preferred by the appellant– a shipping agent, against the impugned Order-in-Original dated 22.05.2019 whereby a penalty of ₹20 lakhs has been imposed on the appellant under Section 114 of Customs Act, 1962.

2. On the allegation of fraudulent export of *'soap stone powder'* in place of *'bulk drugs'* the Directorate of Revenue Intelligence (DRI) initiated investigation. Consequent thereto, a

show-cause notice dated 01.07.2008 was issued to various persons including the appellant herein which culminated in the Order-in-Original dated 24.08.2012 confirming the allegations and imposing penalty of ₹1.5 crores on the appellant, in addition to penalties etc. imposed on the other co-noticees in the show-cause notice (*supra)*. The said Order-in-Original was challenged by co-noticees before this Tribunal by way of filing of various Customs Appeals viz. Appeal Nos. C/1175/2012 etc. in the year 2012.

3. The appellant did not get the show-cause notice (supra) and when they came to know about the aforesaid Order-in-Original, they challenged the same before this Tribunal contending that the show-cause notice had never been served upon it, resulting in ex-parte imposition of penalty of Rs.1.5 crores on them by the learned Commissioner. On the Appellant's appeal, this Tribunal vide Final Order No. S/110/13/CSTB/C-I dated 19.12.2012 set aside the order-in-original dated 24.08.2012 *qua* the appellant and remanded the matter for *denovo* adjudication with a direction to ensure compliance with the principles of nature justice.

4. Pursuant thereto, the show-cause notice (*supra*) was served on the appellant on 22.10.2013. After re-adjudication, the impugned order dated 22.05.2019 has been passed imposing penalty of ₹20 lakhs on the appellant under Section 114 of the Customs Act, 1962.

5. It has been submitted at the bar that the appeal of other co-noticees *viz.* C/1175/2012 etc. arising out of the same show-cause notice dated 01.07.2008 has been disposed of by this Tribunal vide Final Order No. A/86746-86761/2019 dated 18.09.2019 whereby the order impugned therein had been set aside and the matters were remanded to the Adjudicating Authority for fresh decision on all issues, including penalty under section 114 *ibid* as proposed in the show-cause notice. In the aforesaid order, a reference was also made about the penalty imposed on the present appellant as well.

6. In view of the aforesaid submission and without going into the merits, I am of the opinion that the instant appeal also deserves to be remanded to the Adjudicating Authority for a fresh decision along with that of other co-noticees. Accordingly, the impugned order is set and the matter is remanded to the Adjudicating Authority to decide the same afresh in accordance with law after due compliance with the principles of natural justice and uninfluenced by any previous finding.

7. The appeal is therefore allowed by way of remand.

(Pronounced in open Court on 30.07.2025)

(Ajay Sharma)
Member (Judicial)

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