CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85273 OF 2025

[Arising out of Order-in-Original No: CC/HB/06/2024-25 Adj(X) ACC dated 12th November 2024 passed by the Commissioner of Customs – IV,(Export), Mumbai.]

Prayosha Logistics LLP
3C/23 2nd Floor, Kalpataru Aura, Opp: R-City
LBS Marc, Ghatkopar West, Mumbai - 400086 … ***Appellant***

versus

Commissioner of Customs (Export)
Air Cargo Complex, Mumbai – III
Andheri (E), Mumbai - 400099 ***…Respondent***

APPEARANCE:

Shri Girish Nadkarni, Advocate for the appellant

Shri Deepak Sharma, Deputy Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 86785/2025

DATE OF HEARING: 18/09/2025
DATE OF DECISION: 18/09/2025

PER: C J MATHEW

M/s Prayosha Logistics LLP, holder of customs broker licence[1], was imposed with penalty of ₹ 40,00,000 and ₹ 50,00,000 under section 114 of Customs Act, 1962 and section 114AA Customs Act, 1962

[1] [no. 11/1980]

respectively, in order[2] of Commissioner of Customs –IV (Export), Air Cargo Complex, Mumbai, in connection with six bills of entry, out of sixty filed for export of 36697 nos mobile phones, valued at ₹ 29,15,86,060 between 18th June 2019 and 21st September 2019, on which drawback of ₹ 71,24,036 had been claimed. The impugned order relying upon circular[3] on non-admissibility of 'duty drawback' on export of 'unlocked/tested mobile phones' by merchant exporters held that exports of M/s Siddh Exports LLP to the extent of substantially having been for 'unlocked mobile phones' was not eligible for drawback of ₹ 65,72,697; the appellant herein was held as having assisted the exporter to file wrong declarations which caused undue loss to the exchequer and liable for consequential penalties.

2. According to Learned Counsel for the appellant, the legality of the circular upon which the entire recovery was ordered, as also the penalty against the appellant herein, was set aside by Hon'ble High Court of Delhi in *AIMS Retail Services Pvt Ltd v. Union of India & ors [(2025) 2 TMI 596 (Del.)]*. It was further submitted that the Hon'ble High Court of Bombay, dealing similarly with writ proceedings in *Vardh Exim LLP & An v. Union of India Ors [2025 BHC OS 16883 – DB]* and in *Krisha Telelinks Private Limited & Anr v. Union of India & Ors [2025 BHC OS 17463-DB]*, had directed release of drawback to

[2] [order-in-original no: CC/HB/06/2024-25 Adj(X) ACC dated 12th November 2024]
[3] [f.no. 609/4/2020-DBK/1063 dated 25th September 2020]

the extent eligible and without giving effect to the circular.

3. We have heard Learned Authorized Representative.

4. The setting aside of the relied upon circular by the Hon'ble High Court of Delhi in *re AIMS Retail Services Pvt Ltd,* and its consequent confirmation by the Hon'ble Supreme Court, erased the pillar on which the proceedings were initiated against the appellant herein. These are cases in which the drawback had been sanctioned and the impugned order directed recovery under the Customs and Central Excise Duties Drawback Rules, 2017. In the light of the decisions cited *supra,* the impugned order ought to be reconsidered by the original authority insofar as denial of drawback solely on the basis of the circular was concerned.

5. Accordingly, we set aside the impugned order and remand the matter back to the original authority for a fresh decision on the consequence of penalties to be fastened on the appellant herein in the absence of impugned circular and to decide on the charge that the appellant herein had enabled the exporter to claim ineligible drawback

6. Consequently, the appeal is allowed by way of remand.

(Operative part of the order pronounced in the open court on 18th September 2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*