

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
MUMBAI**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86768 of 2023

(Arising out of Order-in-Original No. 47/2023-24/COMMR/NS-I/CAC/JNCH dated 22.05.2023 passed by the Commissioner of Customs (NS-I), Nhava Sheva)

Virendra Singh Baidwal
Ex-CEO of M/s Indus Chemicals
A-603, Mahaavir Darpan, Plot No. 68,
Sector - 27, Nerul (East),
Navi Mumbai - 400 706

.... Appellant

Versus

Commissioner of Customs (NS-I), Nhava Sheva
JNCH, Nhava Sheva, Taluka - Uran,
Dist. Raigad, Maharashtra - 400 707

.... Respondent

APPEARANCE:

Shri Devang Bhasin, Advocate for the Appellant
Shri C.S. Vinod, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87013/2025

Date of Hearing: 11.12.2025

Date of Decision: 11.12.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that M/s Galaxy Surfactants Ltd. had imported "Di-methyl Lauryl Amine" (DMLA) and claimed classification of the products under Customs Tariff Item (CTI) 2921 2990 and 2921 1990 of the First Schedule to the Customs Tariff Act, 1975. The said importer had claimed the benefit of exemption provided under Notification No. 46/2011-Cus. dated 01.06.2011, which are available only to the products under CTI 2921 2990 and 2921 1990 claimed by the said importer. However, the Department had changed the classification as

claimed by the importer and classified the imported goods under CTI 3402 1200 and denied the benefit of exemption to the importer. As a result of change in classification of the imported goods, the Department had proceeded against the importer and others for confiscation of the goods and for imposition of penalties. The impugned order dated 22.05.2023 passed by the Department has upheld confirmation of the demands and imposition of penalties made on the various noticees. The present appellant is a co-noticee, on whom penalty of Rs.10 lakhs was imposed under Section 112(a) of the Customs Act, 1962. The impugned order passed by the adjudicating authority was assailed against by the appellant on the ground that the charges levelled against him cannot be sustained, inasmuch as they had not contravened any of the statutory provisions.

3. When the matter was called out for hearing, learned Advocate appearing for the appellant has placed on record the Final Order No. 86099-86101/2024 dated 26.08.2024 passed by the Tribunal, and submitted that with regard to the importer M/s Galaxy Surfactants Ltd., the matter was remanded back by the Tribunal to the original authority and in respect of the co-noticees Shri K. Natarajan and Shri Unnathan Shekhar, who are the Directors of the importer-firm, were absolved from imposition of penalties. Thus, he submitted that since the appellant had not contravened any of the statutory provisions and had not performed any role in unlawful importation of the goods by the importer, he cannot be exposed to the penal consequences provided under the statute.

4. On reading of the case records, more particularly, the impugned order dated 22.05.2023, we find that the adjudicating authority has not specifically observed any wrongful action being taken by the appellant for importation of the goods by some other importer. Further, the co-ordinate Bench vide Final Order dated 26.08.2024 has also exonerated the Directors of the importer-firm from imposition of penalty. Considering the fact that penalties imposed on other co-noticees were set aside and no proper evidence was placed on record in the impugned order, proving the involvement of the present appellant in wrongful importation of the goods, we are of the view, that the provision of Section 112(a) ibid cannot be invoked for imposition of penalty on him. Therefore, the impugned order,

to the extent it has imposed penalty on the appellant under Section 112(a) of the Act of 1962 is set aside and appeal is allowed in favour of the appellant.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha