CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Customs Appeal No. 85435 of 2022

[Arising out of Order-in-Appeal No. MUM-CUSTM-PRV-APP-723 & 724/15-16 dated 17.03.2016 passed by the Commissioner of Customs (Appeals), Mumbai-III.]

Mr. Shailesh D. Redij ....Appellant
101-A, B Wing, Sanskar Building,
Ganesh Peth Lane, Off. N.C. Kelkar,
Dadar (W), Mumbai – 400 028

VERSUS

Commissioner of Customs (Prev), Mumbai ....Respondent
2nd Floor, New Customs House,
Ballard Estate, Mumbai – 400 001

APPERANCE:

Ms. Anjali Joshi, Advocate for the Appellant
Shri C.S. Vinod, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 85515/2026

Date of Hearing: 24.03.2026
Date of Decision: 24.03.2026

Both sides are present.

2. Learned Counsel for the Appellant informs that they are not in position to submit copy of show-cause notice, which is apparently misplaced but in this case when the duty amount as well as interest were settled before the Settlement Commissioner, in view of the majority judgment of this Tribunal passed in the case of *S.K. Colombowala Vs. Commissioner of Customs (Import), Mumbai,*

reported in *2007 (222) ELT 492 (Tri.-Mumbai)*, cases pending against co-noticees should come to an end, for which penalty under Section 112 of Customs Act, imposed against the present Appellant is unsustainable in both law and facts. She also placed her reliance on the other decision of this Tribunal passed in the case of *Commissioner of Customs (Export), Mumbai Vs. Mahendra Kumar Darewala,* reported in *2016 (340) ELT 727 (Tri.-Mumbai)* that supports the stand of the Appellant that case against all co-noticees would be closed once order of settlement is passed in respect of person entitled to file an application before the Settlement Commissioner.

3. Learned Authorised Representative informs that even in the absence of copy of show-cause notice it is apparent from the order passed by the Commissioner (Appeals) that penalty imposed on the Appellant was only ₹1,00,000/- for which without any special justification/reason offered by the Appellant, Tribunal should refuse to hear the appeal and therefore, this appeal should not be entertained since filed below the threshold prescribed for hearing of the appeal as contemplated under Section 129-A(1) second proviso.

4. I have gone through the appeal paper book and taken note of the submissions. I am of the considered view that even the penalty amount is of ₹1,00,000/- as confirmed by the Commissioner (Appeals) which is assailed before this Tribunal, Appellant deserved to get the benefit contemplated under Section 127J of the Customs Act which provides conclusiveness of the matter settled in the Settlement Order and bars against reopening of any matter covered by such order in any proceeding as it expresses the intention of the legislature for a complete settlement of the case *qua* all parties involved in this case. Therefore, this appeal is admitted for hearing as based on principle of law.

5. Learned Counsel for the Appellant further argued that Appellant was a motorcycle garage owner, before whom complete motorcycle was brought for resale and he facilitated repairing as well as sale of

the said motorcycle, which is unrelated to the import process since import had already taken place and goods were cleared for home consumption and therefore, penalty is unsustainable.

5.1 While accepting her submission, it is also to be taken on record that penalty under Section 112 of the Customs Act was imposed on the Appellant on the ground that goods were liable for confiscation under Section 111 of the Customs Act but the show-cause notice issued invoking provision of Section 111 in respect of goods imported by the importer having been settled, which won't allow further confiscation under any circumstance after the settlement, penalty under Section 112 of the Customs Act would become a nullity. Hence the order.

THE ORDER

6. The appeal is allowed and the order passed by the Commissioner of Customs (Appeals), Mumbai-III *vide* Order-in-Appeal No. MUM-CUSTM-PRV-APP-723 & 724/15-16 dated 17.03.2016 is hereby set aside with consequential relief, if any.

(Dictated & pronounced in open Court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad