CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Customs Appeal No. 86501 of 2022

[Arising out of Order-in-Original No. PCCP/ADJ/RS/02/2022 dated 23.03.2022 passed by the Commissioner of Customs (Preventive), Mumbai.]

M/s JSW Steel Ltd. ....Appellant
Geetapuram, Dolvi,
Tal: Pen, Dist.- Raigad,
Maharashtra – 402 107

VERSUS

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

APPERANCE:

Shri Sameer Pradhan, Associate Vice President of Company 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. 85519/2026

Date of Hearing: 24.03.2026
Date of Decision: 24.03.2026

Legality of imposition of penalty by the Commissioner of Customs (Preventive), Mumbai of ₹50,000/- under Regulation 13 of Sea Cargo Manifest and Transhipment Regulations (SCMTR), 2018 for violation of Section 3, 4 & 5 of the said Regulation dealing with registration, filing of import manifest and export manifest concerning with arrival and departure of goods and penalty of another ₹50,000/- for violation of Handling of Cargo and Customs Regulation is assailed in this appeal.

2. I have heard from both the sides on the merit of the appeal and the same is taken up for order.

3. Learned Counsel for the Appellant Mr. Sameer Pradhan submits that they had registered themselves as Custodian of Dharamtar Jetty but due to glitch in the portal maintained by the Respondent-Department namely ICEGATE, they could not complete the e-registration process and obtain registration number, for which they had made several communications through email to the Department from September, 2020 up to March, 2021 (email copies filed) and even represented the matter to the Assistant Commissioner of Customs requesting to help them in getting Appellant as custodian registered in the ICEGATE but instead of helping out the Appellant which is, commanded in the CBIC Circular No. 43/2020- Customs at para 14 to provide suitable guidelines to the trade, Appellant was served with a show-cause notice proposing above noted penalties. He further pleads that through an adjudication process Commissioner of Customs (Preventive) had confirmed the same without any fault on the part of the Appellant who after taking all due diligence in getting itself registered that could not become successful for such glitch in the ICEGATE system and apparently this reason even the Respondent-Department had periodically extended the date for such registration that is now extended up to 2026. He also informs that penalty under Section 4 & 5 of the SCMTR, 2018 is not at all imposable on the Appellant since such import and export manifest for arrival and departure of goods are to be filed by ship owners and not by the Custodians, for which the order passed by Commissioner of Customs (Preventive) is unsustainable in both law and facts.

4. Learned Authorised Representative Mr. C.S. Vinod submits on the contrary that within the statutory period, Appellant had not registered itself despite periodic reminders, for which penalty was rightly proposed and confirmed by the Commissioner of Customs (Preventive) that needs no interference by this Tribunal.

5. I have heard from both the sides and perused the case record. Appellant has demonstratively established, in filing several copies of email communications concerning the issue and through email sent by it that they had sought assistance of the Departmental people in getting its activity as a custodian to be registered in the systems (ICEGATE) but it failed to do so and being asked by the Bench as to what kind of reminder was issued by the Department to the Appellant which can be shown from the appeal paper-book, learned Authorised Representative failed to produce any such reminder except affirming his stand that despite periodic extension granted in general, Appellant could not register it till April, 2021. This being the facts on record, when the fault lies at the Department's end in not able to upgrade their system appropriately so as to make online registration possible and when none of the Departmental Officer, neither the Systems Operators nor the Assistant Commissioner had come to the rescue of Appellant in getting it registered as a custodian, confirmation of such penalty would only cause further harassment to the Appellant that was expecting a positive co-operation from the Department, who are also being guided through CBIC Circular No. 43/2020-Customs to extent such cooperation. I am, therefore, of the considered view that penalty imposed on the Appellant is harsh, arbitrary and unsustainable in law. Hence the order.

THE ORDER

6. The appeal is allowed and the order passed by the Commissioner of Customs (Preventive), Mumbai *vide* Order-in-Original No. PCCP/ADJ/RS/02/2022 dated 23.03.2022 is hereby set aside with consequential relief, if any.

(Dictated & pronounced in open Court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad