CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 4

Customs Miscellaneous Application No. 86064 of 2026
(on behalf of Respondent)
In
Customs Appeal No. 86429 of 2026

[Arising out of Order C. No. VIII(Cus)25-29/SIIB/2026-27 dated 09.07.2016 issued by the Commissioner of Customs, Nagpur.]

M Y Impex **.... Appellant**
M-111, Mittal GRD Sonaji Nagar
Near Lajwab Hotel, Mittal New Road
Mumbra, Kalyan, Thane, Maharashtra – 400 612.

Versus

Commissioner of Customs, **.... Respondent**
Nagpur Customs Commissionerate
GST Bhavan
Telangkhedi Road, Civil Lines
Nagpur – 440 001.

Appearance:

Shri Ashwini Kumar, Advocates for the Appellant

Shri Shyam Raj Prasad, Special Counsel for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86080/2026

Date of Hearing: 18.08.2026
Date of Decision: 02.09.2026

Per: BENCH

This appeal has been filed by M/s M Y Impex, Mumbai (herein after, referred to as 'the appellant', for short) assailing the order C. No. VIII(Cus) 25-29/SIIB/2026-27 dated 09.07.2016 (herein after, referred to as 'the impugned order', for short) passed by the Commissioner of Customs, Nagpur.

2. In this appeal filed by the appellant, a prayer has been made for the following:

> *"(a) set aside the Order bearing C. No. VIII(Cus)25-29/SIIB/2026-27, DIN: 20260766OJ0000999F56, dated 09.07.2016 passed by the Commissioner of Customs, Nagpur, rejecting the Appellant's application dated 08.06.2026 for provisional release of the seized goods with consequential relief(s);*

(b) pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

3.1 Brief facts of the case leading to this appeal are summarized below. The appellant M/s M Y Impex, Mumbai is a proprietorship firm; Shri Mohamed Sajid Mohamed Yasin Ansari is the proprietor of the said firm. They had obtained Import-Export Code (IEC) DBAPM9281F from Licensing/ Regional Authority (RA), Mumbai of the Directorate General of Foreign Trade (DGFT) on 08.09.2023 for transacting import/export transactions, since the same is a mandatory requirement under Paragraph 1.13 of the Foreign Trade Policy (FTP). On 23.09.2023 through a general power of attorney executed by the said Shri Mohamed Sajid Mahamed Yasin Ansari, proprietor of appellant firm *inter alia*, he appointed one Shri Asif Aziz Daravesh as his power of attorney holder for conducting the activity of import of all kinds of 'Dry Dates' (Wet & Dried), all kinds of food stuff to be purchased from any foreign country as per the power attorney holder's wish, on a profit sharing arrangement of 5% for Shri Mohamed Sajid Mahamed Yasin Ansari and 95% for Shri Asif Aziz Daravesh.

3.2 The appellant firm had imported a consignment of 2,85,000 kgs. of 'Dry Dates' stuffed in ten containers procured from M/s Tawarikh Trading L.L.C., ER1, Office-Off 214, Al Mararr, Dubai, United Arab Emirates (UAE) declaring in the Bill of Entry (B/E) Nos. 3907110 and 3907112 both dated 18.08.2025, the classification of goods under Customs Tariff Item (CTI) 0804 1030 and the country of origin as "United Arab Emirates (UAE)' for clearance of imported goods from customs control at M/s Halcon Inland Container Depot (ICD), Janori, Nashik. Though the commercial invoice dated 09.08.2025 indicated the final destination as Nhava Sheva, the Bill of Lading dated 10.08.2025 indicated the port of discharge as Nhava Sheva and the final delivery place as ICD, Janori.

3.3 The Directorate of Revenue Intelligence, Mumbai Zonal Unit (DRI) had developed a specific intelligence that 'Dry Dates' are originating in Pakistan, and these have been transported from Pakistan to UAE, Dubai, Jebel Ali port and subsequently on transhipment of such Pakistan originating goods by re-stuffing the very same goods in different container, these goods have been incorrectly shown as originating from UAE, in order to circumvent the prohibition imposed for import of goods from Pakistan in terms of the DGFT Notification No.06/2025-26 dated 02.05.2025. On the basis of said intelligence, DRI had sent e-mail communication to the custodian of ICD, Jaloni M/s Halcon on 18.08.2025 that upon physical receipt of such imported goods on transhipment from JNPT, Nhava Sheva, those goods are required to put on hold, as the same were required to be examined by DRI. On receipt of such goods on 30.08.2025 (5 containers) and on 31.08.2025 (another 5 containers), examination of the imported goods was undertaken by DRI vide Panchnama proceedings dated 02.09.2025. Further, enquiries were also conducted with the shipping lines, Vessel Operators, shipping agents, C&F agents, terminal operators etc., for submission of documents relating to such importation of consignments. As a result of the said enquiry, it was reported that M/s Noman Ahmad Shipping LLC, Dubai, UAE is the business entity acting as a C&F agent, who had given instructions regarding the present shipment which included details of shipper, consignee, containers, goods and quantity. Further, all the said imported containers had originated from Karachi, Pakistan and the goods were de-stuffed and again restuffed in order to bypass the prohibition imposed by the Government on import of goods from Pakistan origin, in terms of DGFT Notification No.06/2025-2026 dated 02.05.2025. Therefore, the imported goods were seized under seizure memo dated 06.10.2025.

3.4 The appellant filed writ petition No.33335/2025 before the Hon'ble High Court of Bombay on 07.10.2025, which was registered on 09.10.2025, in which they prayed for the following:

"In the circumstances aforesaid, the Petitioner prays:

> *a. That this Hon'ble Court be pleased to hold and declare that the impugned actions carried out by the Respondents are in complete and gross abuse of the powers conferred under the Act and serious action needs to be taken against the concerned officers for having caused harassment and loss to the Petitioner without any basis whatsoever. This Hon'ble Court be pleased to award appropriate compensatory costs /compensation in the facts and circumstances of the case. The Hon'ble Court be pleased to hold and declare that the belatedly issued Seizure Memo, Exhibit "L" dated 06.10.2025 is in complete abuse of the powers conferred under the Customs Act, 1962.*
>
> *b. That this Hon'ble Court may be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction directing Respondents, their servants, subordinates, and agents:*
>
> > *i. To forthwith lift the detention/hold/seizure of the goods being "Dry Dates" covered under Bill of Entry No. 3907112 and Bill of Entry No. 3907110 dated 15.08.2025 (Exhibit "A" Colly).*

> *ii. To issue a Detention and Demurrage Waiver Certificate in respect of the 10 containers covered under the above referred Bills of Entry at Exhibit A Colly.*
>
> *c. That this Hon'ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction calling for the records and proceedings dealing with the detained 10 Containers covered vide Bill of Entry No. 3907112 and Bill of Entry No. 3907110 dated 15.08.2025 (Exhibit "A" Colly) and after going into the legality, propriety, and validity thereof, to quash and set aside the illegal detention/seizure of the goods.*
>
> *d. Pending the hearing and final disposal of the present Petition:*
>
> *i. To forthwith lift the detention/ seizure of the goods covered under Bill of Entry No. 3907112 and Bill of Entry No. 3907110 dated 15.08.2025 (Exhibit "A" Colly).*
> *ii. To issue a Detention and Demurrage Waiver Certificate in respect of the 10 Containers covered vide Bill of Entry No. 3907112 and Bill of Entry No. 3907110 dated 15.08.2025 (Exhibit "A" Colly);*
>
> *e. For interim and ad-interim relief in terms of prayer (d) above;*
>
> *f. For costs;*
>
> *g. For such further and other reliefs in the nature and circumstances of the case may require.".*

3.5 The said W.P. No.33335/2025 was listed before the Hon'ble High Court of Bombay on various dates viz., 14.10.2025, 16.10.2025, 04.11.2025, 19.11.2025, 26.11.2025, 19.01.2026, 20.01.2026, 27.01.2026, 05.02.2026, 11.02.2026, 24.02.2026 and 26.02.2026. On 04.11.2025, the Hon'ble High Court while hearing both the parties *inter alia* on handling the impugned goods have recorded as follows:

> *"7. At this stage, Mr Mishra, based on instructions submitted, stated that even the re-export would not be permitted until the adjudication proceedings are completed. He further stated that no timeline would be provided for either commencing or completing the adjudication proceedings. He also claimed that the Petitioner is not cooperating in the matter. Mr. Kantawala denies this allegation of non-cooperation.*
>
> *8. Thus, it is apparent that the Petitioner's suggestion about the sale of the goods by the Customs Authorities or reexport of the goods is not acceptable to the Customs Authorities. No timeline is also being provided for the commencement of the adjudication proceedings or their conclusion.*
>
> *9. Mr Mishra also pointed out that it is open to the Petitioner to represent to the Government of India, in light of Notification No. 6/2025-2026 dated 02 May 2025. Mr Mishra is unable to state whether such a representation, if made, would be decided within a reasonable period. He now states that he is not appearing for the Union of India, i.e. the Director General of Foreign Trade. He raises objections to the maintainability of this petition and the locus standi of the petitioner.*
>
> *10. In short, the petitioner's request that the customs authorities sell the perishable dates and retain the amounts received until the*

> *adjudication concludes is unacceptable to the customs authorities, even though the petitioner pointed out that a discretion was vested to permit such a course of action. The alternate proposal for re-export [by retaining samples for investigation] is being resisted by submitting that re-exports may be possible only after the conclusion of adjudication, and that no timeline can be indicated for the commencement and, consequently, the conclusion of adjudication.*
>
> *11. Accordingly, we direct the Respondent Nos. 5 and 6 to file affidavits inter alia, regarding the Petitioner's proposal for re-export of the seized goods. This proposal for re-export will be without prejudice to the Respondents' right to investigate this export transaction. Such an affidavit is necessary because Mr Mishra referred to the provisions of Section 125 of the Customs Act, to submit that even the re-export can be permitted only after the conclusion of the adjudication proceedings. He also submitted that no timeline could be indicated for the completion of the investigation and, consequently, for the adjudication proceedings.*
>
> *12. Such affidavits should indicate, inter alia, the statutory provisions on the policy of re-export or indicate whether there are any circulars, guidelines, etc., that govern the request for re-export. The affidavits must be filed and served by 14 November 2025. List the matter on 19 November 2025.*
>
> *13. Mr. Sharma is requested to immediately communicate this order to the 5th Respondent so that the affidavit is filed and served by 14 November 2025.*
>
> *14. Mr Mishra raises an objection to the locus-standi of the Petitioner and also to the maintainability of this Petition. All such objections are kept open."*

3.6 On 25.02.2026, the appellant was informed by the Assistant Commissioner (Adj.) that in the case of seizure of goods covered by B/E No.3907110 & 3907112 both dated 15.08.2025, the Commissioner of Customs, Nagpur has granted extension of time-limit for issuance of show cause notice by six months i.e., upto 27.08.2026 under Section 110(2) of the Customs Act, 1962.

3.7 Subsequently, when the matter was taken up by the Hon'ble High Court on 26.02.2026, they passed the following order:

> *"2. Reply affidavit to the Petition has been placed on record. We proceeded with the hearing of the Petition, however, Mr. Kantawala, learned counsel for the Petitioner, on instructions, fairly seeks leave to withdraw this Petition.*
>
> *3. Writ Petition is allowed to be withdrawn.*
>
> *4. At this stage Mr. Kantawala would submit that the goods have been seized, he requests that all rights and contentions of the Petitioner in regard to making any application for sale or realization of the value of the goods be kept open. We accept the request, if so permissible in law.*
>
> *5. Disposed of as withdrawn. No costs."*

3.8 On 09.07.2026, the learned Commissioner of Customs, Nagpur had passed an order in respect of application dated 08.06.2026 submitted by the appellant seeking provisional release of seized goods. In the said order it was stated by him that the subject imported goods are prima facie ‘prohibited goods’ within the meaning of Section 2(33) ibid read with the DGFT Notification No.06/2025-26 dated 02.05.2025 and considering the collusive and fraudulent nature of import transaction, national security dimensions, the request for provisional release of goods was rejected. Feeling aggrieved with such order, the appellant has filed this appeal before the Tribunal.

4. Learned Counsel for the appellant during the hearing had submitted that the appellant has the right to absolute return of the seized goods; its provisional release can be considered taking into account prolonged custody and perishable nature; no cogent evidence has given for the Pakistan origin of imported goods as eleven months have passed since the initiation of investigation as the grounds for support of their claim for release of seized goods, which has been rejected in the impugned order.

5.1 Learned Special Counsel appearing for Revenue stated that at the outset that the present appeal challenging the impugned order rejecting provisional release is not maintainable inasmuch as it has not been filed by the importer, but instead, the same has been filed by Shri Asif Aziz Daravesh in the capacity of power of attorney holder of the appellant firm, but signed as proprietor of appellant firm. He further stated that in terms of the DGFT Policy Circular No. 6 (RE-2013)/2009-2014 dated 16.09.2013, read with Section 7 of The Foreign Trade (Development and Regulation) Act, 1992, read along with Rule 12 of Foreign Trade (Regulation) Rules, 1993, every person should make import or export only with Importer-exporter Code Number allotted to him, and the IEC Number cannot be used by anyone other the IEC holder himself/herself. Therefore, he stated that the impugned import transaction involving prohibited goods, having the element of dummy importer nexus as well as collusive control in mis-declaring the country of origin of goods from Pakistan as that of UAE, involves serious fraud and therefore such goods cannot be allowed for provisional clearance until the entire adjudication proceedings are completed.

5.2 Learned Special Counsel stated that the writ petition filed by the appellant before the Hon'ble High Court was withdrawn after hearing at length and when the department controverted the pleas advanced by the appellant and presented robust evidence of fraud committed by them; there is no new cause of action inasmuch as on identical relief, in the form of writ of mandamus to forthwith lift the seizure, they had already abandoned the proceedings before the Hon'ble High Court of Bombay and thus the appellant cannot institute fresh proceedings in the Tribunal. He further stated that the perishable nature of goods cannot override a national security angle, in the context of the order passed by the Hon'ble Supreme Court in identical facts of the case in *Union of India Vs. Make India Impex* in Special Leave to Appeal (C) No. 31205 of 2025 for issue of SCN and to adjudicate the matter.

5.3 Special Counsel for Revenue vehemently argued that in the present appeal filed for provisional release of goods, the grounds of issue of show cause notice (SCN) beyond six months' time involving seizure of goods, whether proper or not cannot be raised, as it is entirely a different ground and such issue has already attained finality inasmuch as the appellant had not preferred any appeal during the three months' time allowed upon communication of the decision taken in extending the time for issue of SCN, on recording the reasons therefor, as required under the customs statute. Therefore, he prayed that the appeal preferred by the appellant be dismissed and the miscellaneous application filed by the Revenue be allowed.

6. We have heard both the learned Counsel appearing for the appellant and the learned Special Counsel of the Department appearing for Revenue and perused the case records along with written synopsis and case laws relied upon by both sides.

7. At the inception, we make it clear that in terms of the legal provisions contained in Section 2(26) of the Customs Act, 1962 providing the definition of 'importer' to be an inclusive definition covering any owner, beneficial owner or any person holding himself out to be the importer; and those contained Section 129A *ibid* providing for any person aggrieved with the decision or order passed by the Commissioner of Customs or Principal Commissioner of Customs as an adjudicating authority is allowed to file an appeal before the Tribunal, we are handling the present appeal for hearing and disposal of the case, irrespective of the fact that importer or any

person holding himself to be an importer has filed this appeal. Since this appeal has been filed by the appellant with a specific prayer for provisional release of the seized goods, by assailing the impugned order passed in rejecting their request for provisional release of seized goods, we are confining our discussion and findings with respect to such aspect alone. Therefore, we are not discussing other aspects of the present issue, even though these were raised by the appellants and countered by the Revenue.

8.1 The relevant provisions of the customs statute dealing with provisional release of imported goods are given under Section 110 of the Customs Act, 1962. The extract of the aforesaid provisions is given below:

> "***Section 110A. Provisional release of goods, documents and things seized or bank account provisionally attached pending adjudication***
>
> *Any goods, documents or things seized or bank account provisionally attached under section 110, may, pending the order of the adjudicating authority, be released to the owner or the bank account holder on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require."*

8.2 On plain reading of the aforesaid legal provision, it transpires that the adjudicating authority, during the pendency of passing of an adjudication order with respect to seizure of goods, under Section 110 of the Customs Act, 1962, may release such goods provisionally, subject to taking a bond with sufficient security and conditions to be fulfilled, as may be specified by him. In the present case, the goods involved are imported 'Dry Dates' alleged to have been brought into India from Pakistan, by mis-declaring the country of origin as UAE, and therefore such importation is in contravention of Section 111(d) and 111(m) *ibid* read with DGFT Notification No.06/2025-26 dated 02.05.2025 prohibiting direct import or indirect import or transit, of all goods in the interest of national security and public policy. Accordingly, these imported goods have been seized on a reasonable belief that they are liable for confiscation under Section 110 *ibid* and upon conducting detailed investigation requisite show cause notice is to be issued within the specified time limit prescribed in terms of Section 124 *ibid*. Further, the adjudicating authority shall proceed to adjudge the case involving confiscation of goods, imposition of penalties etc., in terms of Section 122 *ibid* duly giving persons concerned/noticees an opportunity for personal hearing and following the principles of natural justice.

9.1 On examination of the facts of the case, we find that the imported goods were seized on 06.10.2025 vide Seizure Memo dated 06.10.2025; investigation was conducted by DRI and in the meantime, the appellant-importer was informed about the extension of time-limit for issue of SCN on 25.02.2026; and the SCN was issued on 12.08.2026. Therefore, we find that the due process for issue of SCN for further adjudication of the case has been followed by the department as per the Customs statute. Since the Commissioner of Customs or Principal Commissioner Customs have been empowered to adjudge any case involving confiscation of goods and imposition of penalties without any limit under Section 122 *ibid,* a decision for release of seized goods provisionally or otherwise, its denial, has been validly passed by the proper authority in terms of Section 110A of the Act of 1962. In view of the peculiar facts involved herein, we are of the view that no case has been made out by the appellant for any inference by the Tribunal with respect to the impugned order passed by the Commissioner of Customs, Nagpur.

9.2 In this regard, we also find that the present appeal has been filed by the appellant only for the purpose of obtaining provisional release of goods by appealing against the order passed in refusing to allow provisional release of seized goods, since these were absolutely prohibited for import except for the specific approval to be given by the Government of India, and as such prohibition is in the interest of national security and strategic in nature. During the hearing on 18.08.2026, it has been brought to our attention that SCN dated 12.08.2026 has already been issued to the appellant in this case. Therefore, we are not inclined to interfere with the decision taken by the learned adjudicating authority in the impugned order.

9.3 It is also made clear that since we are not dealing with the issue regarding confiscation of imported goods and consequent penal action on the importer and/or on the persons concerned at this stage, the other grounds mentioned by the appellant-importer are not considered by us in this appeal.

10. In view of the above discussions and analysis, we are of the considered view that the appeal filed by the appellant-importer seeking provisional release of the seized goods is not legally sustainable. Therefore, we do not find any merits in the appeal filed by the appellant-importer.

11. In the result, the appeal filed by the appellant importer is dismissed. Miscellaneous application filed by Revenue is also dismissed accordingly.

(Order pronounced in open court on 02.09.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha