CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

REGIONAL BENCH, COURT NO. 4

CUSTOMS APPEAL NO. 89775 OF 2014

(Arising out of Order-in- Appeal No. 2994/Adj-2014 JNCH/Import-2855 dated 17.07.2014 passed by the Commissioner of Customs (Import), Nhava Sheva, Raigad).

PAWAN KUMAR SINGH ....Appellant
404 Vishnnu Priya Co-op Hsg. Society,
Plot No. 26, Sector-18 A,
Nerul (West), Mumbai-400 706**.**

VERSUS

COMMISSIONER OF CUSTOMS (IMPORT) ....Respondent
NHAVA SHEVA,
Jawaharlal Nehru Custom House,
Post Uran District-Raigad
Maharashtra-400707**.**

APPERANCE:

Shri Rudresh Kumar Tomar, Advocate alongwith
Shri Gaurav Sarfare, 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. A/85953/2026

Date of Hearing: 07.07.2026
Date of Decision: 04.08.2026

Confirmation of penalty u/s. 112A of the Customs Act 1962 by the Commissioner (Appeals) vide his above order is assailed by the Appellant "G" card holder of the Customs broker, as appellant before this Tribunal.

1. One consignment imported by M/s. Jai Durga Implex, New Delhi vide Bill of Entry No. 4929842 dated 15.10.2011 through JNCH, Nhava Sheva,

Customs Commissionerate and this appellant a "G" Card Holder of CHA M/s. Geo Express was assigned with the duty of releasing the goods, which act could not be completed and on account of unreasonable delay, appellant had to return back the documents to the importer through its person Mr. Amit Agrahari (called a middleman in the transaction). Almost one month after such arrival of goods, on specific intelligence received by the Department regarding illegal import of various consumer items on the eve of Diwali, the said goods were subjected to 100% exemption and found to be crackers, a restricted /prohibited items concealed in the consignment of glassware.

3. Accordingly investigations were conducted and Show-cause notice was issued to several people including this CHA Agent (Appellant) who ultimately was penalized with Rs. 1,50,000/- u/s. 112A of the Customs Act. Appellant's unsuccessful attempt before the Commissioner (Appeals) has brought the dispute to the present forum.

4. I have heard at length the submissions made by the adversaries and perused the Appeal Paper Book as well as relevant material available in the case record. Allegations against this appellant is primarily that huge cash transactions were made in the Appellant's personal Bank account to the tune of Rs. Four lakhs and therefore it was believed that he has full knowledge of illegal import. The other allegation is that proprietor of CHA M/s. Geo Express had expressed his ignorance about acceptance of such a consignment for clearance.

5. Ld. Counsel for the Appellant Mr. Rudresh Kumar Tomar with reference to relevant documents available on record tried to justify that out of Four lakhs of Rupees, that was paid in the personal account of the clearing agent as a matter of practice, Rs. 2.07 lakhs were withdrawn and paid towards duty, as revealed from the correspondence made with HDFC Bank and rest of amounts were paid towards transportation as well and logistic support and the fact that mere belief that appellant had full knowledge of such illegal import is just a presumption since amount deposited in appellant's personal account was meant for the purpose of carrying out essential transactions. Further he submitted that appellant in its own statement (Para-11-line number 9 onwards of the Appeal Memo) has confirmed that he only had informed the Customs Department namely the Group-III, Assistant Commissioner (Appriser) that there was mismatch in the description of

goods made in the Bill of Entry on the basis of invoice and the actual goods imported and the same fact has also been acknowledged by Importer's own person namely Mr. Amit Agrahari in his statement recorded u/s. 108 of the Customs Act. The documents concerning the import were returned back by the Appellant without pursuing clearance of the goods imported. It would be worthwhile to reproduce the relevant portion of statement of the appellant as noted in para 11 of the Order-in-Original.

> *' … that he had an argument with Mr. Rakesh Chopra and Mr. Banarasi Tiwari regarding the quick clearance of the consignment; that <u>he was intimated by Shri Satyendra Maurya regarding the mismatch of cargo with the packing list</u>; that he instructed Mr. Maurya to come back to office with the documents; that when Mr. Rakesh Chopra asked him to return the documents as the clearance of the same was getting delayed he immediately returned the documents to Mr. Amit Agrahari who was neither an importer nor representative of the importer; that <u>he had intimated to the AC/Group-III regarding the surrender of the documents.</u> While replying to a question as to why the office of M/s. Geo Cargo Express was closed down abruptly, Mr. Pawan Kumar Singh replied that there was a plan to close down the office since last six months and as there was very less work, the office was closed and the closing down of the office was not abrupt.'*

(Underlined to empahsise)

6. From the above statement, it would be very clear that before goods were subjected to examination by the Duck Officer, immediately after breaking of the seal that happened about a month back, the appellant had returned back the documents without effecting clearance of goods as a CHA agent. Though there was no explanation offered by Ld. Counsel for the Appellant that the proprietor of the CHA M/s. Geo Cargo Express was not informed by the appellant about taking of such an assignment, it could be noticed from the statement of proprietor M/s. Geo Cargo Express that he did not deny such transaction but only narrated that this agent Mr. Pawan Kumar Singh (Appellant) would be in a better position to explain about the consignment of these two Bills of Entry and he was informed by Mr. Pawan Kumar Singh on a later date that documents were returned back to the parties over some dispute and intimation was given to Customs accordingly, apart from the fact that Shri Satyendra Maurya an employee of M/s. Geo Cargo Express also admitted in its statement that he was handling one of those Bills of Entry (as reveals from Show-cause notice). In the instant case also, it is quite peculiar to make a note that importer M/s. jai Durga Implex

had denied its knowledge about the import of impugned goods through their IEC but interestingly such denial was not signed by the proprietor of said firm whose other documents including PAN card copy, IT Return details etc. were furnished alongwith the required documents to the Customs. Be that as it may, when CHA or its "G" Card holder namely the present appellant Pawan Kumar Singh's involvement in such importation of goods to JNCH, Nhava Sheva Port was not forthcoming and when their role in releasing the goods was restricted only to breaking of seal to identify the goods after submission of Bills of Entry and necessary payment of duty and when they themselves admitted to have returned the documents upon observation of mismatch in the description of goods and intimated Customs namely the Respondent Department about such returning of documents without clearance, under no circumstances this Pawan Kumar Singh can be considered to have done or omitted or abate in doing such an act that would render such goods liable to confiscation under Section 111 so as to attract the penal provision contained under Section 112A of the Customs Act 1962. Hence the order.

The Order

7. The appeal is allowed and the order passed by the Commissioner vide Order-in-Appeal No. 2994/Adj-2014 JNCH/Import-2855 dated 17.07.2014 in confirming penalty against this appellant is hereby set aside with consequential relief, if any.

(Order pronounced in the open court on 04.08.2026)

(Dr.Suvendu Kumar Pati)
Member (Judicial)

Arti