CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60516 of 2023

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-316-317-2023 dated 04.05.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

Vishrut Singla **......Appellant**
M/s AYS Shipping Corporation,
Room 57, Shivalik Tower,
Ludhiana, Punjab-141010

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
ICD, GRFL, G.T. Road,
Ludhiana, Punjab-141001

WITH

Customs Appeal No. 60521 of 2023

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-316-317-2023 dated 04.05.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

Harinder Singh **......Appellant**
G-Card Holder of M/s Bhagwati
Impex-CHA, Kukraja Plaza Office No.305,
A-Wing, 3rd Floor, Near K Star Hotel,
Plot No.46,47,56, Sector-11, CBD
Belapur, Mumbai, Maharashtra-400614

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
ICD, GRFL, G.T. Road,
Ludhiana, Punjab-141001

APPEARANCE:

Shri Poojan Malhotra, Advocate for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 61045-61046/2025

DATE OF HEARING: 10.09.2025
DATE OF DECISION: 16.09.2025

These two appeals are directed against the common impugned order dated 04.05.2023 passed by the Commissioner (Appeals), Ludhiana whereby the penalty of Rs.1 Lakh was imposed on the appellant No.1 i.e Shri Vishrut Singla, Partner under Section 112 (a) & 112 (b) of Customs Act, 1962 and a penalty of Rs.50,000/- was imposed on the appellant No.2 i.e. Shri Harinder Singh, who was G-Card holder of M/s Bhagwati Impex-CHA under Section 112 (a) & 112 (b) of Customs Act, 1962.

2. Briefly the facts of the present case are that M/s Prince International, Ludhiana was engaged in the import of Bicycle Parts and Bicycle Pumps falling under the Chapter Sub-Heading (CTH 8714 & 8414 of the Customs Tariff Act, 1975) from Inland Container Depot, Ludhiana, Punjab and Nhava Sheva Port, Maharashtra. An intelligence was received by DRI indicated that M/s Prince International is engaged in the evasion of Customs Duty by resorting to under-valuation and mis-declaration at the time of import of Bicycle Parts and Bicycle Pumps from China. In pursuance of this intelligence, the DRI officer conducted searches at the premises of M/s Prince International and found incriminating documents and electronic devices and after completion of investigation, SCNs were issued to the M/s Prince International, the main importer as well as to the

present appellants alleging that they resorted to under-valuation and mis-declaration and demanded differential duty from importer beside invocation of penalty provisions against the appellant and representative of CHA, Shri Harinder Singh, G-Card holder. The importer M/s Prince International against the SCN dated 31.10.2017 filed an application under Section 127B of the Customs Act before Settlement Commission of Customs and Central Excise, New Delhi. The Settlement Commission vide Final Order dated 06.07.2018 settled the case of M/s Prince International under Section 127C(5) of the Customs Act and the appellants, being co-noticees in the said SCN dated 31.10.2017, was imposed penalty under Section 112 (a) & 112 (b) of Customs Act, 1962. They have challenged the same by filing the present appeals.

3. Heard both sides and perused the records of the case.

4. Firstly, we take up the appeal of Shri Vishrut Singla who was the partner of M/s AYS Shipping Corporation, Ludhiana and was engaged in freight forwarding of export and import consignments and he paid the freight on behalf of the importer to the shipping lines through banking channel. Learned Counsel for the appellant submits that the allegation and findings that the appellant collected freight in cash from M/s Prince International, paid the same to shipping lines and thereby abetted in under-valuation of impugned goods is based on suspicion whereas the appellant never transmitted any amount towards payment of freight to any shipping line/ overseas person in respect of consignments imported by M/s Prince International. He further submits that no shipping line accepts payment in cash. He

also submits that the dictated statement dated 07.07.2017 of the appellant is the basis for imposing the penalty on the appellant. He also submits that the appellant denied the contents of the statements and beside the statement there is no documentary evidence brought on record to substantiate that the appellant forwarded any amount to overseas agent of M/s Prince International. He further submits that it is settled law that statement tendered under Section 108 of the Customs Act does not have any higher evidential value than facts on record. Learned Counsel, in this regard, also relied upon the decision in the case of Triveny Spinning Mills (P) Ltd. & Ors. Vs CCE, Ludhiana – 2006 (201) ELT 220 (T) which has been upheld by the Hon'ble Punjab and Haryana High Court reported in 2008 (226) ELT 181.

5. Learned Counsel further submits that once the main importer has settled the dispute and paid the duty and the penalty, the penalty on the co-noticee under Section 112 (a) & 112 (b) of Customs Act, 1962 is not justified and the appellant is also entitled to the immunity. He also referred to Section 128 of the Customs Act and also the decision of this Tribunal in the case of M/s Sharu Steels Pvt. Ltd. wherein this Tribunal vide Order dated 13.10.2019 in Appeal No. E/60867/2018 by relying upon the decision in the case of S.K. Colombowala granted the immunity and dropped the penalty.

6. Learned Counsel further submits that penalty of Rs. 50,000/- imposed under Section 112 (a) & 112 (b) of Customs Act, 1962 on Shri Harinder Singh, who was working as G-Card holder of M/s Bhagwati Impex-CHA was not sustainable on the ground that the appellant, Shri Harinder Singh, had filed the Bill of Entry as per

shipping documents relating to clearance of Bicycle Parts and Bicycle Pumps given by the importer M/s Prince International. He further submits that there is no allegation that the appellant declared the description other than those specified in the import documents. Neither the appellant nor their representative was present at the time of loading of imported goods nor they had any knowledge about the contents of consignment imported by M/s Prince International except to the extent of description/ declaration given in the shipping documents handed over to them by the importer for clearance of the impugned goods. He further submits that there is neither any allegation nor finding against the flow of illegal consideration from M/s Prince International to appellant for any *mens rea* on the part of the appellant; the appellant discharged his duties in a *bona fide* manner in the normal course of business. Learned Counsel also submits that once the main importer has settled the dispute and paid the duty through Settlement Commission, the appellants are also be given the immunity as regards the penalty. He further submits that the appellant, who was only the G-Card holder and if there is any allegation against the CHA then it was incumbent upon the Department to initiate action under provisions of CBLR-2018 which prescribes detailed provisions for action for violation of provisions thereto. He further submits that it is incorrect to invoke penal action under Section 112 (a) & 112 (b) of the Customs Act against the appellant. For this submission, he relied upon the decision of the Tribunal in the case of Sarosh Nagarwala Vs CC (Export), Nhava Sheva – 2017 (358) ELT 542 (Tri. Mumbai).

7. On the other hand, learned DR reiterated the findings of the impugned order and justified the imposition of penalty on the appellants on account of their involvement in the under-valuation and mis-declaration made by M/s Prince International. He further submits that though the main importer i.e. M/s Prince International approached the Settlement Commissioner and vide Final Order dated 06.07.2018, the Settlement Commissioner settled the case of M/s Prince International but settlement of the case of the importer does not give any immunity to the present appellants for their role in the under-valuation and mis-declaration. He relied upon the following decisions:

- Decent Laminates Pvt. Ltd. – 2018 (361) ELT 896 (Tri. Ahmd.)
- Vinod Todi – 2018 (361) ELT A19 (Bom.)
- Commissioner of Customs Vs Evergreen Shipping Agency India Pvt. Ltd. – 2024 (388) ELT 690 (Del.)

8. Learned DR submits that it is consistently held by the Hon'ble Bombay High Court and Hon'ble Delhi High Court cited supra that merely because the immunity was granted by Settlement Commission to main noticee, co-noticee were not entitled to such immunity granted by the Settlement Commission.

9. I have considered the submissions of both the parties and perused the material on record. I find that as regards the appellant Shri Vishrut Singla is concerned, he was doing the work of freight forwarding on behalf of the main importer and the allegation against him is that he was paying cash to the shipping lines and has abetted

in under-valuation of the impugned goods; the entire allegation against him is on the basis of his statement dated 07.07.2017 which was denied by him, besides the sole statement of the appellant, there is no other documentary evidence brought on record to substantiate that the appellant forwarded any amount to overseas consigners of M/s Prince International. There was no investigation at the end of the foreign supplier to substantiate the allegation against him. Further, I find that the automatic immunity to the appellant as claimed by the appellant cannot be granted in view of the decisions relied upon by the learned DR but keeping in view his role and involvement, I find that Revenue has not been able to establish any material showing his connivance in under-valuation and mis-declaration. Therefore, I set aside the penalty imposed on Shri Vishrut Singla.

10. As regards the penalty of Rs.50,000/- imposed on Shri Harinder Singh, the G-Card holder, I find that he has filed the documents and declared the description of the goods as per the shipping documents given by the importer and had no knowledge about the contents of consignment imported as he was neither present at the time of loading of the impugned consignments nor had any knowledge regarding the transaction between the overseas seller of M/s Prince International and there is no allegation that the appellant had knowledge about the contents of the consignment imported nor there is any allegation regarding flow of unlawful consideration from the importer to the appellant. Further, I find that the decision relied upon by the learned Counsel for the appellant in the case of Sarosh Nagarwala cited supra wherein it has been held that when there is a

specific regulation in the form of CBLR-2018 prescribing the obligations and the conditions for the CHA, the action should have been taken against the appellant under the said regulation instead of imposing penalty under Section 112(a) and 112(b). In view of the decision of the Tribunal cited (supra), penalty imposed on the CHA, the appellant Shri Harinder Singh, G-Card holder is also set aside by allowing the appeals of the appellants.

(Order pronounced in the open court on 16/09/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

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