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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 18<sup>th</sup> September, 2025*

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**CUSAA 116/2025 & CM APPL. 50639/2025**

**MAYANK GUPTA**

.....Appellant

Through: Mr. Navneet Panwar, Adv.

versus

**COMMISSIONER OF CUSTOM(EXPORT)**

.....Respondent

Through: Mr. Satish Aggarwala, SSC.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE SHAIL JAIN**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present appeal, filed by the Appellant under Section 130A of the Customs Act, 1962, arises out of the impugned judgment dated 18<sup>th</sup> October 2024 (hereinafter, '*impugned judgment*') passed by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter, '*CESTAT*') in *Customs Appeal No. 52761/2019* titled '*Shri Mayank Gupta, Director of M/s Sky Barge Freight Pvt. Ltd. v. Commissioner of Customs, (Export)*'. Vide the impugned judgment, the penalty imposed upon the Appellant has been upheld by the CESTAT.
3. The present case arises out of a specific intelligence regarding illegal export of '*Red Sanders*' which is stated to have been received by the Customs Department. Based on the said intelligence, certain consignments were intercepted which on examination were found to contain '*Red Sandal Wood*'



or ‘*Red Sanders*’. However, the supporting documents which were filed in respect of the same had declared the goods therein as ‘*household goods*’.

4. *Red Sandal Wood* has been recognised as an ‘endangered’ species under the international convention CITES and without a proper valid export certificate it cannot be exported.

5. The baggage declaration which was filed in the name of Mr. Vipin Dua was investigated and it was found that the airway bill was booked in the name M/s Sikki Auto India Pvt. Ltd. The said name itself was allegedly a forged name. One Mr. Sarvesh Kumar who was the Customs Broker had prepared all the documentation. Mr. Ravinder Kumar of M/s Vin Global Logistics was a freight forwarder who is also the Appellant before the Court. He had provided the documents to Mr. Mayank Gupta of M/s Sky Barge Freight Pvt. Ltd. who is another freight forwarder who then filed the airway bill in the name of the fictitious company.

6. The entire consignment was seized and the penalties were also imposed on various other individuals who were involved in the chain of preparing the documents for exporting as also the other entities involved. The Order-in-Original was passed by the Adjudicating Authority on 25<sup>th</sup> July 2019 *inter alia* imposing a penalty of Rs.10 lakhs on the Appellant. The operative portion of the Order-in-Original reads as under:

*“13. In the light of above discussion and finding, I pass the following order;*

*i. I order for confiscation of the seized consignment of 1103.1 Kgs of Red Sanders under Section 113(d) and Section 113(h) (1) of the Customs Act, 1962;*

*ii. I reject the declared value of the consignment (as mentioned in Para-32 of the SCN) under Rule 8 of the Customs Valuation (Determination of Value of Export*



*Goods) Rules, 2007 and re-determine the assessable value of Red Sanders as Rs.2,00,00,306/- in terms of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007;*

*iii. I impose Penalty of Rs 50,00000 (Rs Fifty Lakhs) on Shri Prashant Jha under Section 114 and 114AA of the Customs Act, 1962*

*iv. I also impose a penalty of Rs 75, 00000(Seventy five lakhs) on Shri Prashant Kumar Jha under Section 114 AA of the Act ibid.*

*v. I impose Penalty of Rs 15,00000 (Rs Fifteen Lakhs) on Shri Servesh Kumar under Section 114 and but do not propose any penalty on him under Section 114AA of the Customs Act, 1962.*

*vi. I Impose Penalty of Rs 25,00000 (Rs Twent five Lakhs) on Shri Krishna Chandra Jha under Section 114 and but do not propose any penalty under Section 114AA of the Customs Act, 1962.*

*vii. I impose a penalty of Rs 10,00000 (Rs Ten Lakhs) on Shri Ravindra Kumar under Section 114 Of the Customs Act, 1962.*

**viii. I impose Penalty of Rs. 10,00000/ (Rs Ten Lakhs) on Shri Mayank Gupta under Section 114 of the Customs Act, 1962.**

*ix. I impose Penalty of Rs.5,00000 (Rs Five Lakhs) on Shri Nishant Kumar Singh under Section 114 of the Customs Act, 1962.*

*x. I impose a token penalty of Rs.5,000/ (Rs Five Thousand) on Shri Ankit Kumar under Section 114 of the Customs Act, 1962.”*

7. The above Order-in-Original was challenged by various parties including the Appellant herein. However, the CESTAT has disposed of the appeals vide order dated 18<sup>th</sup> October 2024, in the following terms:

*““43. In view of the above, the appeals are disposed of, as below :-*

**(i) Appeal No. : C/52671 of 2019 filed by Shri Mayank**



**Gupta is dismissed.**

**(ii) Appeal No. : C/50017 of 2020 filed by Revenue seeking imposition of penalty on Shri Mayank Gupta under section 114AA of the Act is dismissed.**

(iii) Appeal No. : C/52762 of 2019 filed by Shri Ravindra Kumar is dismissed.

(iv) Appeal No. : C/50016 of 2020 filed by Revenue seeking imposition of penalty under section 114AA of the Act on Shri Ravindra Kumar is dismissed.

(v) Appeal No. : C/50018 of 2020 filed by the Revenue seeking imposition of penalty under section 114AA of the Act on Shri Sarvesh Kumar is allowed and the impugned order is modified imposing penalty of Rs. 75,00,000/- on Shri Sarvesh Kumar under section 114AA of the Act.

(vi) Appeal No. : C/50015 of 2020 filed by Revenue seeking imposition of penalty under section 114AA of the Act on Shri Krishna Chandra Jha is allowed and the impugned order is modified imposing the penalty of Rs. 50,00,000/- on Shri Krishna Chandra Jha under section 114AA of the Act.””

8. A perusal of the above order makes it clear that the appeal filed by the Appellant was dismissed and hence, the penalty of Rs. 10 lakhs has been upheld. Hence, the present appeal. It is the case of the Appellant that the only role played by him was of filing the airway bills.

9. The Court has considered the matter. The role of Mr. Mayank Gupta has been discussed in the impugned judgment of the CESTAT. The same reads as under:

*“29. What needs to be examined is what rendered the goods liable to confiscation. The goods were mis-declared in the baggage declaration which is an entry made under the Customs Act and the goods were prohibited for export. Both these factors rendered the goods liable for confiscation. The baggage declaration itself was filed in*



*the name of Shri Vipin Dua who had nothing to do with the consignment.*

*30. However, this consignment could not have been exported unless an airway bill was also filed which is the requirement of the airlines. The airway bill was filed in the name of M/s Sikki Auto Pvt. Ltd. – the fictitious company (M/s Seiki Auto a company which exists at the address and nothing to do with the consignment). Since the name of the consignor/consignee and the description of the goods in the airway bill and the baggage declaration were different, two letters were filed and the name of the consignor and consignee and the description of the goods in the airway bill were changed to match the description in the baggage declaration. Thus, the airway bill was filed initially in the name of a fictitious company M/s Sikki Auto and thereafter it was changed in the name of Vipin Dua who also had nothing to do with the consignment. The admitted fraud would not have been possible, but for these mis-declarations in both the baggage declaration and the airway bill. Several persons were involved in this scheme and Shri Mayank Gupta's role in the entire operation is that of filing the airway bills themselves. Without the airway bill being filed by Shri Mayank Gupta in the name of a fictitious company the entire fraud would not have been possible.*

*31. In view of the above, we find that there is no error in the Commissioner imposing penalty on Shri Mayank Gupta under section 114 of the Act. It also needs to be noted that section 114 does not require the intent of an individual to be established. The act or omission which rendered the goods liable for confiscation under section 113 of the Act is sufficient.*

*32. As for the Revenue's appeal seeking imposition of penalty under section 114AA of the Act, this section renders a person liable to penalty only if he knowingly or intentionally makes, signs, or uses any declaration statement or document which is false or incorrect in any material particular in the transaction of any business for the purpose of this act. The document for the purpose of the Act in this case was the baggage declaration which*



*was not filed by Shri Mayank Gupta. The airway bill is not a document filed under the Act but is a document required by the airlines. It is the counterpart of bill of lading filed for transport by ships. Although the airway bill is an essential document to take the goods out of the country it is not the document filed under the Act. In view of the above, we find that the Commissioner was correct in not imposing a penalty on Shri Mayank Gupta under section 114AA of the Act.”*

10. Considering the role played by Mr. Mayank Gupta, this Court is of the opinion that a penalty of Rs.10 lakh, which has already been imposed and has been upheld by the CESTAT, would be sufficient penalty.

11. Moreover, an appeal from the order of the CESTAT would arise under Section 130 of the Customs Act, 1962, only when there is a substantial question of law that arises. In the present case, the Court does not find any substantial question of law and therefore, the conditions under Section 130 of the Customs Act, 1962 remain unsatisfied.

12. The penalty imposed upon the Appellant, does not warrant any interference of this Court.

13. Accordingly, the present appeal is dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**SHAIL JAIN  
JUDGE**

**SEPTEMBER 18, 2025**

kk/ck