CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 55177 OF 2023

[Arising Out Of Order in Appeal No. CC(A) CUS/DII/ICD/TKD/EXPORT/1084/2022-23 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi]

M/S PLANET WORLD CARGO **......APPELLANT**
K-363, Street No. 6C,
Mahipalpur Extn, New Delhi-110037

Vs.

COMMISSIONER OF CUSTOMS EXPORT-NEW DELHI ICD TKD **.....RESPONDENT**
Inland Container Depot,
Tughlakabad, New Delhi-110020

Appearance:
Shri Sharad Shrivastava and Ms. Gunjan Tanwar, Advocates for the appellant

Shri Rakesh Kumar, Authorised Representative for the Department

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51709 /2025

DATE OF HEARING : 22/07/2025
DATE OF DECISION : 13/11/2025

P.V. SUBBA RAO

M/s. Planet World, Cargo[1] filed this appeal to assail the order dated 15.11. 2022[2] passed by the Commissioner of Customs(Appeals), New Custom House, New Delhi[3], in which he upheld the Order dated13.7.2021 passed by the Joint Commissioner imposing a penalty of ₹10 lakhs on the appellant under section 114(iii) of the Customs Act 1962[4] and rejected the appellant's appeal.

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1. **The appellant**
2. **Impugned order**
3. **Commissioner**
4. **Act**

2. The facts of the case, in brief, are that the Directorate General of Revenue Intelligence[5] received intelligence that goods attempted to be exported under three Shipping Bills dated 21.2.2019 filed in the name of M/s. KKS Export and Import[6] were mis-declared. The goods, described in the Shipping Bills as 'Self Adhesive Vinyl Sheets' were, therefore, examined and were found to be of very poor quality and not of the value indicated in the Shipping Bills and some appeared to have no vinyl at all. They were therefore, detained and sent for testing to the Central Revenue Control Laboratories[7] who sent its test reports on 25.3.2019. One sample was found to be simple fluorescent paper, another simple polyethylene film and the others, though were self-adhesive were not vinyl sheets.

3. The matter was investigated further, statements of various persons were recorded and the Additional Director DRI issued a Show Cause Notice dated 23.8.2019[8] to four persons- KKS in whose name the Shipping Bills were filed, the appellant who filed the Shipping Bills, Shri Mohd. Najib Abdulsattar Memon[9] and Shri Sumit Tandon[10].

4. Investigations showed that the Shipping Bills were filed by the appellant at the behest of Najib and with neither any request nor any authorization from KKS- the purported exporter. KKS did not respond to the SCN nor make any representation and the Additional Commissioner confiscated the export goods and allowed them to be redeemed on payment of redemption fine. He

5. DRI
6. KKS
7. CRCL
8. SCN
9. Najib
10. Sumit

did not impose any penalty on KKS but imposed penalties on the appellant, Najib and Sumit.

5. In this appeal, we are only concerned with the penalty of Rs.10,00,000/- imposed on the appellant under section 114(iii) of the Act. On appeal, the Commissioner (Appeals) upheld the order of the Additional Commissioner.

Submissions on behalf of the appellant

6. Learned counsel for the appellant assailed the impugned order to the extent that it imposed a penalty on the appellant under section 114(iii) and submitted as follows:

(i) The impugned order is bad in law.

(ii) The Additional Director, DRI is not the proper officer to issue an SCN as per the judgment of the Supreme Court in **Canon India**[11]**.**

(iii) Penalty has been imposed on the appellant for violation of regulations 10(a) and 10 (n) of the Customs Broker's Licensing Regulations, 2018[12] and therefore, for the same act of the appellant, penalty cannot also be imposed under section 114(iii) of the Act.

(iv) Regulation 10(n) of the CBLR does not require the appellant to physically verify the existence of the exporter at the premises stated in the documents.

(v) The appellant was not required to examine or verify the goods which were received in sealed condition by it when filing the Shipping Bills. Therefore, the

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12. CBLR

appellant, as the Customs Broker cannot be held responsible for any mis-declaration of the goods in the shipping bills.

Submissions on behalf of the Revenue

7. Learned authorized representative for the Revenue vehemently supported the impugned order and asserted that it calls for no interference.

Findings

8. We have considered the submissions advanced by both sides and perused the records. There is no dispute that the export goods were mis-declared and hence they were liable to confiscation and have been confiscated. The appellant's submission that the Additional Director DRI was not the proper officer to issue the SCN in view of the judgment in **Canon India** cannot be accepted for two reasons. Firstly, that judgment was on the question of issuing an SCN under section 28 of the Act to demand duty not paid and NOT on the question of issuing an SCN for confiscation and penalties under section 124 of the Act. Secondly, the decision in **Canon India** was subsequently reviewed by the Supreme Court in a review petition filed by the Revenue.

9. The appellant's submission that it was not required to examine the contents of the goods while filing the Shipping Bill would have been correct if the appellant had filed the Shipping Bill in good faith on an authorization from and having been engaged by the exporter. This is a case where the exporter was nowhere in picture and at the behest of Shri Najib, the appellant

filed *benami* (pseudonymous) Shipping Bills in the name of KKS. Therefore, the appellant was fully responsible for any fraud or mis-declaration in such shipping bills because it is a case of attempt by Shri Najib and the appellant to mis-declare and export goods which resulted in their being confiscated.

10. The appellant's third contention that since a penalty has already been imposed under CBLR, no penalty can be imposed under section 114 (iii) of the Act also cannot be accepted. The penalty under CBLR for violation of various Regulations under CBLR and it has nothing to do with acts or omissions which rendered the export goods liable to confiscation for which penalty is imposable under section 114 of Act.

11. In view of the above, we find no force in the appeal filed by the appellant.

12. The impugned order is upheld and the appeal is dismissed.

[Order pronounced on **13.11.2025**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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