



CNR: KAHC010504882025

NC: 2026:KHC:49248-DB
CSTA No. 17 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

CUSTOMS APPEAL NO.17 OF 2025

BETWEEN:

COMMISSIONER OF CUSTOMS,
BANGALORE - CUS CR BUILDING
P. B NO - 5400 QUEENS ROAD
BANGALORE,
KARNATAKA - 560 001.

...APPELLANT

(BY SRI. AKASH B., SHETTY, ADVOCATE)

AND:

AEG POWER SOLUTIONS (INDIA) PVT LTD
NO.85, KANIMINIKI VILLAGE,
KENGARI HOBLI,
BANGALORE SOUTH TALUK,
BANGALORE,
KARNATAKA - 560 060.

...RESPONDENT

THIS CSTA / CUSTOMS APPEAL UNDER SEC.130 OF THE
CUSTOMS ACT 1962, PRAYING TO SET ASIDE THE IMPUGNED
FINAL ORDER NO.20314/2024 DATED.15.04.2024, PASSED BY
THE CESTAT, BENGALURU.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

Digitally signed
by AASEEFA
PARVEEN
Location: HIGH
COURT OF
KARNATAKA



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CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

This appeal by revenue filed under Section 130 of the Customs Act, 1962 is directed against the Final Order No. 20314/2024 dated 15.04.2024 passed by the CESTAT raising the following two substantial questions of law:

"Whether, in the present facts and circumstances of the case, the Hon'ble CESTAT, was right in coming to the conclusion that the goods liable for confiscation and imposition of penalty under Section 114A is set aside even when there are corroborative evidences like Department had initiated the correspondence with the respondent which revealed that the respondent had neither installed the goods nor used for the intended purpose?"

Whether, the Tribunal was justified in dropping the penalty on the respondent and setting aside impugned order holding the goods liable for confiscation under Section 114A of the Customs Act, 1962 without examining the Department's initiative in bringing the facts of non-disclosure of facts of goods being not in used for the purpose of availing the concessional duty in proper perspective and recorded perverse finding?"



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2. The respondent-importer imported machinery, instruments and auxiliary equipments for setting up of Solar Power Generation Project with concessional rate of duty, availing benefit of notification No.01/2011 dated 06.01.2011. It is stated that the respondent imported goods vide BOE No.5200383 dated 16.11.2011 and BOE No.4778618 dated 28.09.2011 and warehoused in public bonded warehouse and later cleared vide Ex-Bond bill of Entry Nos.83539 and 83540, both dated 08.12.2011 for supply to M/s.NKG Infrastructure Limited for establishing Solar Power Generation Plant. However, it is the case of the appellant-customs authority that the order for installation of Solar Power Generation Plant by M/s.NKG Infrastructure Limited was cancelled subsequent to import of the equipments. However, the respondent had failed to inform the same or to re-export the imported equipments. It is further case of the appellant that the appellant sought by their letter dated 26.07.2012 the installation certificate or utilisation certificate in respect of the equipments



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imported. It is submitted that subsequently, the respondent paid differential duty as well as interest. Subsequent to payment of differential duty and interest, the appellant-authorities issued show cause notice dated 31.05.2013 under Section 28 and Section 124 of Customs Act, 1962, calling upon the respondent to explain as to why differential duty as well as interest and penalty shall not be levied. It is however noticed that the respondent prior to issuance of the show cause notice had already paid the differential duty as well as interest between 28.09.2012 to 29.11.2012. The said fact is not disputed by the appellant-customs authorities. In the above circumstances, the only question that would fall for consideration is as to whether subsequent to receipt of the differential duty and interest, the customs authorities could have issued notice under Section 28 of Act, 1962 demanding penalty. The Tribunal taking note of Section 28 of Act, 1962 has rightly come to the conclusion that, when once the differential duty and interest is paid, the customs



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authorities could not issue notice in terms of Section 28(2) of Act, 1962. In the facts of the present case, we are in total agreement with the finding arrived at by the CESTAT.

3. In the above circumstances, we are of the considered opinion that no substantial question of law would arise for consideration. Accordingly, the appeal as well as IA No.1/2026 stands *rejected*.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NS
CT:TSM
List No.: 1 Sl No.: 7