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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CUSAA 108/2025, CM APPL. 49261/2025, CM APPL. 49262/2025**
& CM APPL. 49263/2025

RAVINDRA KUMARAppellant
Through: Mr. Navneet Panwart, Mr. Videsh Vaish
and Mr. Lalit Mohan, Advs.
versus

COMMISSIONER OF CUSTOMS (EXPORT)Respondent
Through: Mr. Satish Aggarwala, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER
% **12.08.2025**

1. This hearing has been done through hybrid mode.
2. The present appeal under Section 130 of the Customs Act, 1962 challenges the impugned judgment dated 18th October, 2024 passed by Customs Excise and Service Tax Appellate Tribunal (*hereinafter* 'CESTAT') Delhi by which the penalty imposed upon the Appellant has been upheld.
3. The 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 (*hereinafter 'OIO'*) was passed by the Adjudicating Authority on 24th July, 2013 *inter alia* imposing a penalty of Rs. 10 lakhs on the Appellant. The operative portion of the OIO 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 was challenged by various parties including the Appellant herein. However, the Id. CESTAT has disposed of the appeals 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 Mr. Ravindra Kumar-the Appellant herein was dismissed and hence the penalty of Rs. 10 lakhs has been upheld. Thus the present appeal has been preferred.

9. It is the case of the Appellant that the only role played by him was to transfer the documents from Mr. Sarvesh Kumar to Mr. Mayank Gupta and the Appellant was not aware that the documents were forged or that M/s Sikki Auto India Pvt. Ltd. was a fictitious company.

10. Heard Id. Counsel for the Appellant and considered the matter. The Court has perused the records as well. A perusal of the impugned judgment would show that the role of each of the individuals has been discussed in detail by CESTAT. It is noticed that the role of Mr. Ravindra Kumar has been discussed in detail in the order passed by CESTAT in the following terms:

“33. Shri Ravindra Kumar: The role of Shri Ravindra Kumar is that of obtaining the documents from Sarvesh Kumar and giving them to Mayank Gupta to get the airway bill issued in the name of fictitious company M/s Sikki Auto. Later, he obtained letters from Sarvesh Kumar and sent them to Mayank Gupta to get the names of the consignor/consignee and the nature of goods



changed in the airway bill so as to align them with the fake baggage declaration filed in the name of Shri Vipin Dua. Thus, he played a critical role in the entire conspiracy to attempt to smuggle red sanders using the baggage declaration and the airway bill. In his appeal No. C/52762 of 2019, learned counsel for Shri Ravindra Kumar asserted that he did not fail in his duty of due diligence verification and obtaining the KYC. He also asserted that there is no evidence that Shri Ravindra Kumar had obtained any monetary benefit from the admitted fraud.

34. For these reasons, learned counsel argued that Shri Ravindra Kumar had not done anything which rendered the goods liable for confiscation under section 113 of the Act or abetted doing or omission of such an act. He was unaware of mis-declaration at any point of time. For these reasons, the penalty imposed on him under section 114 of the Act needs to be set aside.

35. On the other hand, learned authorized representative for Revenue submits that there is no error by Commissioner imposing penalty under section 114 of the Act on Shri Ravindra Kumar. However, Commissioner had erred in not also imposing penalty under section 114AA of the Act.

36. As discussed above, there is no dispute that red sanders were attempted to be exported using fake baggage declarations filed in the name of Shri Vipin Dua without his knowledge and fake airway bills filed in the name of fictitious company M/s Sikki Auto. Later, in order to align the two documents, letters were given to change the consignor, consignee and description of goods in the airway bill. Shri Ravindra Kumar was a key player in arranging the fake airway bills through Shri Mayank Gupta at the behest of Shri Sarvesh Kumar. We have no manner of doubt that but for these actions of Ravindra Kumar the attempted export of red sanders would not have been possible. Therefore, the Commissioner was correct in imposing penalty under



section 114 of the Act on Shri Ravindra Kumar.

37. As far as the penalty under section 114 AA of the Act is concerned, this can be imposed only if the knowledge of the person is established and the mis-declaration was in respect of a document filed for the purposes of the Act. In this case, the document filed for the purpose of Act is the baggage declaration. The role of Shri Ravindra Kumar was in getting the airway bill filed which was the document related to the airlines. Therefore, we do not find that any penalty was imposable on section 114AA of the Act. The Commissioner was correct in not imposing penalty on him under this section.”

11. A perusal of the above extraction reveals Mr. Ravindra Kumar, in fact,
- (i) facilitated the procurement of documents from Shri Sarvesh Kumar and, through Shri Mayank Gupta,
 - (ii) arranged for the issuance of airway bills in the name of the fictitious entity M/s Sikki Auto, and
 - (iii) subsequently coordinated changes to consignor/consignee details and goods description to align with a fake baggage declaration filed in the name of Shri Vipin Dua.

His actions, according to Id. CESTAT, were integral to the attempted smuggling of red sanders, thereby justifying the imposition of the penalty under Section 114 of the Customs Act, 1962.

12. This being said, an appeal from the order of 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.

13. The penalty, imposed on the Appellant, does not warrant any



interference of this Court.

14. Therefore, the present appeal is, accordingly, dismissed. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 12, 2025

dj/Ar.