



## ***ALO Law Office- IDT Tax | Arbitration | Litigation***

**Date: 16.07.2025**

### **CESTAT Chandigarh Sets Aside Warehouse License Cancellation**

In a significant ruling favoring the rights of bonded warehouse license holders, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Chandigarh Bench, has set aside the cancellation of the Public Bonded Warehouse License of M/s Ajay Wines & Spirits, while upholding a monetary penalty of ₹4 lakhs under Section 117 of the Customs Act, 1962.

#### **Background of the Case**

- M/s Ajay Wines & Spirits was operating under a Public Bonded Warehouse License No. 08/2023, granted under Section 57 of the Customs Act.
- Two separate stock verifications conducted in April 2024 revealed shortages of imported liquor cases:
  - 04.04.2024: 339 cases found short; duty of ₹17.14 lakhs was deposited.
  - 23.04.2024: Additional shortages observed related to stock of M/s Castle Spirits Pvt. Ltd.
- A Show Cause Notice was issued proposing:
  - Cancellation of the warehouse license under Section 58B
  - Penalty under Section 117 for contravention of warehouse regulations

The Principal Commissioner of Customs, Ludhiana, vide Order-in-Original dated 21.05.2025, imposed the maximum penalty and cancelled the warehouse license of the appellant.

## Key Legal Issues

1. Whether the licensee acted in connivance with the importer to facilitate clandestine removal of goods?
2. Whether the shortage and duty deposit indicate intent to evade customs duty?
3. Whether cancellation of the license is proportionate to the alleged offence?

## Appellant's Arguments

- Customs duty was voluntarily deposited on 03.04.2024 and 04.04.2024, even before and during the inspection, indicating no intent to evade.
- Errors in bonded stock were clerical and rectifiable, not fraudulent.
- No Panchnama was drawn during inspection; procedural irregularities were cited.
- No evidence of connivance with the importer (Castle Spirits) was furnished.
- Cancellation of license is disproportionate, especially when maximum monetary penalty has already been imposed.

## CESTAT's Findings

- **Duty Payment Before Detection:** Duty of ₹17.14 lakhs was paid before the shortage was officially recorded, negating intent to evade.
- **Clerical Errors & CHA Mistakes:** Mistakes in Ex-bond Bill of Entry filings were attributed to CHA oversight, not deliberate smuggling.
- **No Evidence of Collusion:** No documentary or testimonial evidence linking the appellant with deliberate illegal removal of bonded stock.
- **Disproportionate Penalty:** Cancellation of license would amount to depriving livelihood, especially when the appellant is not a habitual offender.

## CESTAT's Final Ruling

- Penalty of ₹4,00,000 under Section 117 upheld.
- Cancellation of Public Bonded Warehouse License set aside.
- Appeal allowed to the extent of license restoration.

## Legal Implications

This ruling sets an important precedent in customs administration:

- First-time or procedural defaulters must not face extreme punitive action like license cancellation unless mens rea (intent) is clearly established.
- Mere stock discrepancies, if rectified with duty payment and no pattern of evasion, do not warrant cancellation.
- Customs authorities must rely on evidence, not presumptions, before imposing harsh penalties.

## Conclusion

The CESTAT Chandigarh judgment provides relief to bonded warehouse operators and emphasizes the importance of proportionality in customs enforcement. It reaffirms that monetary penalties are sufficient where intent to defraud is not proven, and livelihoods should not be disrupted without compelling evidence.

*This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id [intelconsul@gmail.com](mailto:intelconsul@gmail.com) or on his Mobile +91-9999005379.*

**Source: CESTAT Chandigarh**

## Disclaimer

Write to us at [office@aadrikaalaw.com](mailto:office@aadrikaalaw.com)

Tel: +91-11-4999 2707 | +91-9999005379

[www.aadrikaalaw.com](http://www.aadrikaalaw.com)

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60510 of 2025**

[Arising out of Order-in-Original No. PR.COMMR/NA/LDH/CUSTOMS/04/2025 dated 21.05.2025 passed by the Principal Commissioner of Customs, Ludhiana]

**M/s Ajay Wines & Spirits**

Plot No. 22, Ground Floor, Press Site,  
Industrial Area Phase-I, Chandigarh

**.....Appellant**

*VERSUS*

**Principal Commissioner of Customs,  
Ludhiana**

Customs House, ICD GRFL Complex, G T Road,  
Sahnewal, Ludhiana, Punjab 141120

**.....Respondent**

**APPEARANCE:**

Mr. Naveen Bindal and Mr. Aman Garg, Advocates for the Appellant

Mr. Anurag Kumar, Authorized Representative for the Respondent

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

**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60852/2025**

DATE OF HEARING: 04.07.2025

DATE OF DECISION: 15.07.2025

**S. S. GARG :**

The present appeal is directed against impugned order dated 21.05.2025 passed by the Principal Commissioner of Customs, Ludhiana, whereby the learned Principal Commissioner has imposed a penalty of Rs. 4 lakhs under Section 117 of the Customs Act, 1962

and has also cancelled the Public Bonded Warehouse License granted to the appellant.

2. Briefly stated facts of the present case are that the appellant was granted a Public Bonded Warehouse License No. 08/2023 dated 27.07.2023 under Section 57 of the Customs Act, 1962. During the stock verification of the appellant on 04.04.2024, shortage of 339 cases were noticed by the Departmental Officers. Against the said shortage of 339 cases, customs duty amounting to Rs. 17.14 lakhs was deposited on 03.04.2024 and 04.04.2024. Further, during another stock verification of the appellant conducted on 23.04.2024, stock shortage was detected by the Departmental Officers. The said stock shortage pertained to M/s Castle Spirits Pvt Ltd, Chandigarh (the importer). From the said verification, the Department entertained a view that the appellant, in connivance with M/s Castle Spirits Pvt Ltd, was engaged in clandestine removal of imported goods without payment of customs duty. A letter to the concerned Port of Import for taking appropriate action against the importer under the provisions of Customs Act, 1962 for clandestine removal of imported goods without payment of customs duty was issued. A SCN dated 22.05.2024 was issued to the appellant proposing cancellation of the Public Bonded Warehouse License under Section 58(B) of the Customs Act, 1962 as well as imposition of penalty under Section 117 of the Customs Act, 1962 for violation of the provisions of Regulations made thereunder. The appellant filed reply to the SCN and after following the due process, the learned Principal

Commissioner, vide the impugned order, has cancelled the Public Bonded Warehouse License of the appellant and has also imposed penalty of Rs. 4 lakhs. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the appellant submits that the impugned order cancelling the Public Bonded Warehouse License of the appellant, is not sustainable in law as the same has been done without appreciating the facts and the law in proper perspective.

4.1 He further submits that alleged shortage of 339 cases was noticed during the stock verification done on 04.04.2024 and customs duty of Rs. 17.14 lakhs for the same was deposited on 03.04.2024 and 04.04.2024 which means, part customs duty was already paid on 03.04.2024 for shortage detected on 04.04.2024 and the remaining duty was also paid in normal course on 04.04.2024. He also submits that the partial duty already paid on 03.04.2024 shows that there was no intent to clear the goods without payment of duty. He further submits that in this case, no Panchnama with regard to stock verification conducted on 04.04.2024 was drawn.

4.2 Regarding the shortage noticed during stock verification dated 23.04.2024, the learned Counsel submits that there was no shortage of Red Label as duty had already been paid on 150 cases in respect of WBE 8009904 dated 26.09 2023 against the shortage of 110 cases noticed during the inspection but same could not be

submitted due to panic and pressure in the night of 23.04.2024 and the documents were submitted on the next day.

4.3 He further submits that there were shortages of 12 out of 50 cases of Jacob Creek and 10 cases of Cragganmore due to mistake of CHA as he failed to file Ex-bond bill of entry. He also submits that on being pointed out, duty of Rs. 1,73,791/- and Rs. 60,633/- against the entire stock in the particular bills of entry of Jacob Creek (50 cases) and Cragganmore (10 cases) was duly deposited. He further submits that in fact, there was shortage of only 12 cases of Jacob Creek and not 50 as observed in the impugned order.

4.4 He further submits that there is no evidence or any specific statement showing that the appellant has connived with M/s Castle Spirits Pvt Ltd for clandestine removal of the goods.

4.5 He further submits that vide the impugned order, maximum penalty has been imposed on the appellant without considering the gravity of offence. He further submits that the appellant has already paid the penalty of Rs. 4 lakhs; and prays that the cancellation of License should be set aside keeping in view that nature of offence and the fact that the appellant is not a habitual offender. He also submits that the penalty has already been imposed on the appellant as well as on the importer in separate proceeding vide order dated 29.08.2024 passed by the Commissioner of Customs, ICD-Tughlakabad, New Delhi.

5. On the other hand, the learned Authorized Representative for the Revenue submits that since the appellant has contravened the provisions of the Regulations vide which the appellant had been granted the Public Bonded Warehouse License and after the visit of the Departmental Officers, shortage was detected and after following the due process, impugned order has been passed by the Principal Commissioner.

6. We have considered the submissions made by both the parties and perused of the material on record. We find that on during stock verification done on 04.04.2024, shortage was detected, but it is also a fact that customs duty of Rs. 17.14 lakhs was deposited on 03.04.2024 and 04.04.2024; it shows that part of customs duty was already paid on 03.04.2024 for shortage detected on 04.04.2024 which was not considered by the Department. Further, we find that there is a discrepancy with regard to number of cases which were found short. We also find that in fact, there was shortage of only 12 cases of Jacob Creek and not 50 as observed in the impugned order. Further, we do not find any evidence brought by the Department on record to show that there is a collusion between the appellant and M/s Castle Spirits Pvt Ltd for clandestine removal of the goods. Further, we find that keeping in view the gravity of offence committed by the appellant, the cancellation of License is harsh more so when the Department has already imposed maximum penalty of Rs. 4 lakhs under Section 117 of the Customs Act, 1962 on the appellant.

7. Considering the totality of the facts and circumstances, we are of the view that cancellation of License in the facts and circumstances of the present case, is unreasonable and harsh and will deprive the appellant from his livelihood more so when the appellant is not a habitual offender.

8. In view of our discussion above, we are of the considered opinion that imposition of penalty of Rs. 4 lakhs under Section 117 of the Customs Act, 1962 is sufficient and we uphold the same. We set aside the cancellation of the Public Bonded Warehouse License granted to the appellant.

9. The appeal is allowed on the above terms.

(Order pronounced in the open court on 15.07.2025)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**