CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60013 of 2020

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-153 To 159/19-20 dated 04.09.2019 passed by the Commissioner (Appeals), CGST, Jammu]

M/s Amit Kumar Bansal **......Appellant**
Pro M/s AR Trading Co Pakki Gali
Dhuri, Sangrur
Punjab 148026

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
Preventive Custom House
C.R. Building, the mall
Amritsar, Punjab 143001

APPEARANCE:

Shri Aman Bansal, Advocate for the Appellant

Shri Navneet Singh, 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. 60451/2026

DATE OF HEARING:16.07.2026
DATE OF DECISION: 16.07.2026

S.S. GARG:

The present appeal is directed against the impugned order dated 04.09.2019 passed by the Commissioner (Appeals) Jammu, whereby the learned Commissioner had upheld the Order of original authority imposing the penalty on the appellant under Section 112(a) and 112(b) amounting to Rs. 2,00,000/- and under Section 114AA amounting to Rs. 10,00,000/-.

2. Briefly the facts of the present case are that a search was conducted by the officers of DRI, Ludhiana on 09.09.2015 at the business premises of the appellant and during the search of the appellant stock of fire crackers along with different types of imported goods, namely toy gun, PVC Film, Mosquito killer packets and kite balloons was found. Further, the fire crackers lying in the godown were alleged to be of Chinese origin by the DRI officers and during the investigation, the statement of Sh. Amit Bansal, Prop. Of the firm M/s A.R. Trading Co., Pakki Gali, Dhuri was recorded by the officers of DRI and as per the allegations of the appellant that he was forced by the DRI officers to make the statement and sign the statement on the doted lines; in fact there was no fire crackers of Chinese origin in the premises yet the appellant was made to sign the incorrect seizure list with the threat that if not signed he will be prosecuted for causing obstruction to official. As per the appellant, he has purchased the fire crackers of Indian origin from M/s Naresh Trading Co. and also produced the purchase bills regarding the purchase of crackers before the learned Commissioner (Appeals) also.

2.1 Further, the allegation of the appellant is that the said purchases made by the appellant was got verified by Excise and Taxation Department, Dhuri from the Department of Excise and Taxation at New Delhi and all the relevant documents with regard to confirmation was filed and have also been annexed with the present appeal. As per the appellant, he never imported fire crackers neither from China nor from any other country a banned item. Whereas, the appellant was dealing exclusively in the business of toy guns, PVC

Film, Mosquito killers, kite balloons etc. since 2008. On the basis of the statement alone, the case was made against the appellant and both the authorities have confirmed the imposition of penalty on the appellant under Section 112a and 112b amounting to Rs. 2,00,000/- and under Section 114AA amounting to Rs. 10,00,000/-. Hence, the present appeal.

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

4. Learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law. He further submits that the case against the appellant has been made only on the basis of the statement of Sh. Amit Kumar Bansal and the said statement was obtained under coercion and duress. He further submits that no fire crackers of Chinese origin was recovered from the premises of the appellant. He further submits that DRI officers compelled the appellant to make a statement with regard to the import of Chinese fire crackers. The learned counsel also submits that no further investigation except the statement of the appellant was made the basis or the allegation of illegal import made by the appellant. He also submits that that the appellant has bonafidely purchased the crackers from M/s. Naresh Trading Co. Delhi and has also produced the invoices before the authorities which were not considered by both the authorities below.

5. On the other hand, learned authorized representative for the Revenue reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, we find that the present case was made against the appellant only on the basis of his statement which was not supported by recovery of Chinese made crackers imported by the appellant firm. We also find that the appellant has subsequently retracted the statement obtained by the DRI officers under coercion but the said retraction was also not considered by both the authorities below for the reasons best known to them.

7. We also find that the allegation of illegal import made by the Department against the appellant has not been proved on record at all and the entire case is made on the basis of the statement of the appellant which was subsequently retracted. We find that it a case of no investigation, except the statement of the appellant allegedly recorded under coercion and duress.

8. In view of these facts and circumstances, we are of the considered view that the imposition of penalty on the appellant under Section 112a and 112b and Section 114AA is not sustainable in law and therefore, we set aside the penalty by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash