

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

Customs Appeal Nos. 75480 to 75483 of 2022

AND

Customs Appeal Nos. 75485 to 75488 of 2022

(Arising out of common Order-in-Appeal Nos. KOL/CUS(CCP)/AKR/527-534/2021 dated 14.07.2021 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. A.K. Jain Sales & Marketing Pvt. Ltd. : Appellant

Tarak Bhawan, 4th Floor, Burdwan Road,
P.O.: Siliguri, District: Darjeeling – 734 001

VERSUS

Commissioner of Customs (Preventive) : Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Nilotpal Chowdhury, Advocate,
Ms. Sweety Jha, Advocate,
For the Appellant

Shri S. Chakravorty, Authorized Representative,
For the Respondent

CORAM:

**HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

FINAL ORDER NOs. 77615-77622 / 2025

DATE OF HEARING: 30.10.2025

DATE OF DECISION: 04.11.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The captioned appeals have been filed against the Orders-in-Appeal Nos. KOL/CUS(CCP)/AKR/527-534/2021 dated 14.07.2021 passed by Ld. Commissioner of Customs (Appeals), Kolkata, wherein the Ld. Commissioner (Appeals) has confirmed the Redemption Fine imposed in the Orders-in-Original. As all these appeals have a common issue, they are taken up together for decision by a common order.

2. The facts of the case are that M/s. A.K Jain Sales and Marketing Private Limited (hereinafter referred to as the "appellant"), had imported 4600 Cartons of Yogurt Flavoured Milk Drinks through Changrabandha LCS vide B/E No.: 6672215 dated 29.01.2020. Changrabandha is not one of the ports authorized for importation of livestock products, as per the Notification issued by the Department of Animal Husbandry, Dairying and Fisheries in the Ministry of Agriculture under S.O.2666(E) dated 16.10.2014, as amended. At the time of importation, the appellant could not produce any veterinary certificate. Later, they produced veterinary certificate under No. 33.01.0000.110.53.031.15-113 dated 25.01.2020 issued by the Department of Livestock Services, before the assessing authority. Thus, the Assessing Officer was of the view that the appellant has violated the provisions of Livestock Importation (Amendment) Act, 2001 read with Section 11 of the Customs Act, 1962, making the goods liable to confiscation under Section 111(d) of the Customs Act, 1962, as the said goods were imported through a port which has not been authorized to import such goods. However, the Assessing Officer opined that the violation of port restriction was only a Venial Breach for which the Redemption Fine @10% and penalty @ 5% of the assessable value of the goods should be sufficient. Accordingly, the goods were allowed to be cleared on payment of Redemption Fine @10% and penalty @ 5% of the assessable value of the goods.

2.1. Similarly, the same goods imported by the appellant through different bills of entry through the same LCS have been adjudicated and allowed clearance on payment of Redemption Fine and penalties.

2.2. Aggrieved against the orders of imposition of Redemption Fine and Penalty in respect of all the Bills of Entry, the appellant filed appeals before the Ld. Commissioner (Appeals), who, vide the impugned orders, set aside the penalties and upheld the Redemption Fines imposed in all the Orders-in-Original. The present appeals have been filed by the appellant against the upholding of the Redemption fines as imposed in the Orders-in-Original by the Commissioner (Appeals) in the impugned order.

3. The appellant has contended that the Ld. Commissioner of Customs (Appeals) has passed the impugned Order in a biased and wrong manner and hence, the same is liable to be set aside and quashed. The appellant submits that the impugned Order is bad in the eyes of law and passed in wrong appreciation of facts and circumstances, without accepting the settled position of law and therefore the impugned Order is liable to be set aside and quashed. It is also their stand that the Ld. Commissioner of Customs (Appeals) failed to appreciate that the seizure so made is wrong and therefore, penal consequences in light thereof is wrong in the eyes of law.

3.1. Further, the appellant has stated that in the process of adjudication, a similar consignment has already been cleared through Ghojadanga Land Custom falling under the jurisdiction of the same Commissionerate and thus, it is their contention that upholding the imposition of Redemption Fine in the present case by the Commissioner of Customs (Appeals) reflects biasness and the said action is beyond the periphery of law.

3.2. Thus, the appellant prayed for setting aside the Redemption Fines imposed in the impugned order and allowing the instant appeals.

4. The Ld. Authorized Representative of the Revenue submits that Chandrabandha is not one of the ports authorized for importation of livestock products, as per the Notification issued by the Department of Animal Husbandry, Dairying and Fisheries in the Ministry of Agriculture under S.O.2666(E) dated 16.10.2014, as amended. Hence, it is his argument that the appellant has violated the provisions of Livestock Importation (Amendment) Act, 2001 read with Section 11 of the Customs Act, 1962 making the goods liable to confiscation under Section 111(d) of the Customs Act, 1962. Pointing out that the said goods were imported through a port which has not been authorized to import such goods, the Ld. Departmental Representative submits that the Ld. Commissioner (Appeals) has rightly upheld the redemption Fine imposed in this case. Accordingly, he prayed for rejecting the appeals filed by the appellant.

5. Heard both sides and perused the appeal records.

6. We observe that the appellant has imported "PRAN LASSI (Yogurt Flavored Drinks)" under CTH 04039090 which refers to the item as milk product as per the Customs Tariff. As per the procedure for import of livestock products into India, all live-stock products given in the SCHEDULE appended to the said Notification No. S.O. 2666, dated 16.10.2014 have to be imported only through the specified ports. For ready reference the provisions of the said S.O. is reproduced below:

"(4) All livestock products shall be imported into India through the seaports airports located at Delhi, Mumbai, Kolkata, Chennai, Bangalore and Hyderabad where the Animal Quarantine and Certification Services Stations are located....."

6.1. From the above, it is clear that the Changrabandha LCS is not one of the authorized ports to import the livestock products as per the Notification issued by the Department of Animal Husbandry, Dairying and Fisheries in the Ministry of Agriculture under S.O. 2666(E) dated 16.10.2014, as amended. Hence, we find that the said importer-appellant did not comply with the provisions of the Department of Animal Husbandry Dairying and Fisheries.

6.2. We find that in order to ensure compliance of imported dairy products, FSSR 2011 mandated that consignment of dairy products imported into India shall be accompanied with veterinary certificate issued by Competent Authority of Exporting country. In the present case, it is a fact that at the time of importation, the appellant could not produce any veterinary certificate. Later, they produced veterinary certificate under No. 33.01.0000.110.53.031.15-113 dated 25.01.2020 issued by the Department of Livestock Services, before the assessing authority. We also find that the samples of the consignment of LASSI drawn on 15/04/2020 by the officers of Changrabandha LCS were forwarded to the Regional Disease Diagnostic Laboratory (Eastern Region), Govt of West Bengal, 37, Belgachia Road, Kolkata for the sanitary requirement & Bacteriological Examination. The said laboratory is also enlisted in AQCS. The Joint

Director, Institute of Animal Health & Veterinary Biological (IAH&VB), Kolkata has submitted their test report that all counts are within permissible limit. Thus, we find that the goods as such has satisfied all the legal requirements, except that the importation has taken place through an unauthorized port. We find that the same factual position is applicable to the imports made through all the bills of entry involved in the present appeals.

6.3. From the facts and evidence available on record, it is evident that the appellant was very well aware that Changrabandha LCS has not been authorized to import the livestock products as per the Notification issued by the Department of Animal Husbandry, Dairying and Fisheries in the Ministry of Agriculture under Changrabandha LCS. In spite of that, they continued to import many consignments through the same port again and again in violation of the said S.O. 2666(E) dated 16.10.2014. We note that the goods imported by the appellant is a food product which needs to comply with certain standards at the time of imports. Thus, the goods need to be checked by the authorities having expertise to examine the said goods. Such expert authorities are not available on all the Ports and hence, importation of these items have been restricted only through the designated ports where such experts are available for examination of the said goods. Thus, we are of the considered view that the appellant importing the goods though Changrabandha LCS, knowing very well that it was not an authorized port to import such goods, has violated the provisions of the said S.O. 2666(E) dated 16.10.2014. Accordingly, we find that the lower authority has rightly confiscated the goods under Section 111(d) of the Customs Act, 1962 as improper

importation by the appellant through the Port which is not a "notified port" as per the Notification cited supra.

6.4. We find that a similar view has been taken by the Tribunal, Delhi in the case of *Broadway Overseas Ltd. vs. Commissioner of Customs, Amritsar* reported in 2014 (310) E.L.T. 597 (Tri. Del.), wherein the Tribunal has held as under: -

"6. There is no dispute that in terms of ITC note No. 4 Chapter 72 of the ITC (HS), in respect of import of certain goods, there is restriction about the port at which the goods can be imported and in terms of the provisions of the licensing notes, the secondary/defective HR Coils could be imported only at the sea ports of Mumbai, Chennai or Kolkatta. The reason for this restriction would be that expertise for examination of such goods would be available only at the major ports and not at the every port. The import of the goods, in question, at ICD, Ludhiana, notwithstanding the fact that the procurement certificates issued by the Superintendent permitted their import at this ICD, is contrary to the ITC provisions. Therefore, I am of the view the goods have been correctly confiscated. However, looking to the circumstances of the case, the penalty on the appellant under Section 112(a) of the Customs Act, 1962 is waived and the redemption fine is reduced to Rs. 1,00,000/- (Rupees One Lakh). The impugned order stand modified, as above.

6.5. We find that the aforesaid decision of the Tribunal has been affirmed by the Hon'ble Punjab & Haryana High Court as reported in 2015 (325) E.L.T. 40.

6.6. Thus, by relying on the ratio of the decision cited supra, we do not find any infirmity in the impugned order upholding the imposition of Redemption Fine by the Assessing Officer. Accordingly, we hold that the appeals filed by the appellant do not merit consideration and hence we reject the same.

7. We note that in their submissions, the appellant has contended that similar consignments have been cleared through Ghojadanga Land Custom falling under the jurisdiction of the same Commissionerate. However, we find that the appellant has not produced any documentary evidence in support of their claim. Such claim of the appellant without any documentary evidence to support the claim cannot be considered as a valid claim. Hence, we hold that the said claim of the appellant does not merit any consideration.

8. In the result, we uphold the impugned order imposing Redemption Fine and reject the appeals filed by the appellant.

(Order pronounced in the open court on **04.11.2025**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd