

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 632 of 2025

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PR. COMMISSIONER OF CUSTOMS - AHMEDABAD
Versus
SKA CASHEW

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Appearance:
PARAM V SHAH(9473) for the Appellant(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 07/09/2026
ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned Senior Standing Counsel Mr. Param V. Shah for the appellant.
2. The Tax Appeal is admitted for consideration of the following substantial questions of law;

“(i) Whether the Hon’ble CESTAT is right in law and facts in relying upon the decision in case of Commissioner of Customs Vs. Ankit Pulps & Boards Pvt. Ltd. [2007 (209) ELT 135 (Tri. - Mumbai)], which pertains to issue prior to insertion of proviso to sub-section (2) of Section 23 of the Customs Act, 1962?

(ii) Whether, in the facts and circumstances of the case, the Hon’ble CESTAT erred in law by holding that the demand of customs duty was not sustainable merely on the ground that the goods were absolutely confiscated, without examining the legal consequence of mis-

declaration under Sections 111 and 112 of the Customs Act, 1962?

(iii) Whether the abandonment of goods by the importer under Section 23 of the Customs Act, 1962, extinguishes the liability to pay customs duty even in cases involving mis-declaration and seizure under Section 111(d), (m), (n) or (o)?

(iv) Whether the Hon'ble CESTAT was justified in setting aside the penalty under Section 114A of the Customs Act, 1962, without recording any finding on the importer's obligation to exercise due diligence to prevent the import of prohibited goods (Areca Nuts), particularly when a Bill of Entry had been filed for cashew nuts?

(v) Whether the Hon'ble CESTAT committed an error of law by relying upon precedent cases involving no Bill of Entry or incorrect goods without considering the distinguishing fact that in the present case, a Bill of Entry was filed and the wrong goods (Areca Nuts) were actually imported?

(vi) Whether in the facts and circumstances of the case, M/s. SKA Cashew is liable to penalty under Section 112(a) of the Customs Act, 1962?"

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI, J)

PRAVIN KARUNAN