

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 51914 of 2021

(Arising out of Order-in-Appeal No. CC(A) CUS/D-I/Import/NCH/101-102/2021-22 dated 02.07.2021 passed by the Commissioner of Customs (Appeals), New Delhi).

Time Avenue Pvt. Ltd.

189, Turner Road,
Bandra (West),
Mumbai - 400050

...Appellant

VERSUS

The Commissioner of Customs (Appeals),

Air Cargo Complex (Import),
New Customs House, IGI Airport,
New Delhi - 110037

...Respondent

APPEARANCE:

Shri Stebin Mathew and Ms. Dishya Pandey, Advocates for the appellant

Shri Ratnesh Kumar Mishra, Authorised Representative for the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: 09.10.2025

DATE OF DECISION: 09.04.2026

FINAL ORDER NO. 50696/2026

JUSTICE DILIP GUPTA:

M/s. Time Avenue Pvt. Ltd.¹ has filed this appeal to assail the order dated 02.07.2021 passed by the Commissioner of Customs (Appeals)² by which the appeal filed by the appellant to assail the order dated 15.11.2018 passed by the Joint Commissioner imposing a penalty of Rs. 20,000/- upon the appellant under section 112(b) of the Customs Act,

1. the appellant

2. the Commissioner (Appeals)

1962³ has been upheld.

2. The appellant is engaged in the retail sale of watches. During the course of its business, the appellant purchased watches from an importer called M/s. Richemont India Pvt. Ltd.⁴ for selling it in the local market.

3. On the basis of an intelligence that certain importers of branded watches of Swiss Origin were mis-declaring the Retail Sale Price⁵ of watches at the time of import to evade payment of appropriate customs duties, investigation was conducted by the Officers of Customs.

4. During investigation, premises of the appellant was searched and six watches were seized under a seizure memorandum dated 06.06.2017. Thereafter, a provisional release order dated 21.08.2017 was issued by which the seized watches were released to the appellant on payment of Rs. 82,250/-.

5. However, a show cause notice dated 27.09.2017 was issued to the appellant to show cause as to why penalty under section 112(b) of the Customs Act should not be imposed on the appellant and the seized watches should not be held liable to confiscation under the provisions of section 111 of the Customs Act.

6. The appellant filed a reply to the show cause notice and denied the charges leveled against the appellant. The appellant also enclosed copies of invoices under which the watches were purchased by the appellant from the importer. The invoices depicted the value of watches and the CST for the goods but details of Bills of Entry under which the goods were imported or the RSP declared at the time of import were not shown in the invoices. The appellant also contended that the provisions of Customs Act

3. the Customs Act
4. Richemont India
5. RSP

were not attracted as there was no allegation that RSP was mis-declared at the time of import of goods.

7. The Joint Commissioner, however, passed an order dated 20.11.2018, imposing penalty of Rs. 20,000/- on the appellant under section 112(b) of the Customs Act.

8. This order was challenged by the appellant before the Commissioner (Appeals), who by an order dated 02.07.2021 dismissed the appeal.

9. It is this order dated 02.07.2021 passed by the Commissioner of Customs (Appeals) that has been assailed in this appeal.

10. The case set up by the department was that the importer had mis-declared the RSP of the watches and the watches locally purchased by the appellant were seized. According to the appellant, the change in the RSP at the premises of the appellant took place on account of the global change in the price of the watches after the appellant had locally purchased the watches, which fact was communicated to the appellant by the importer. According to the appellant, this change was affected without knowledge that the RSP had been declared by the importer at the time of import as the appellant was not privy to the declaration and proceedings of import.

11. The contention of the learned counsel for the appellant is that there is no evidence to suggest that the appellant knew that the importer had declared the RSP at the time of import. Thus, in the absence of any knowledge on the part of the appellant regarding the declaration of RSP at the time of import, penalty could not have been imposed on the appellant under section 112(b) of the Customs Act. Learned counsel further submitted that the order has misconstrued the letter dated 07.06.2017, as from it has been concluded that the appellant knew that the seized

watches were liable to confiscation.

12. It is seen that the appellant, by the letter dated 07.06.2017, had made it clear that the prices were revised as per the importer price list and that they were not aware of any duty payment. The appellant also clarified that it had made local purchases only against payment of VAT. The allegation that the appellant had knowledge that the goods were liable to confiscation has been assumed in the impugned order. There is no documentary evidence that may indicate that the appellant had any knowledge of the declaration of RSP at the time of import. Thus, penalty under section 112(b) of the Customs Act could not have been imposed on the appellant.

13. The order dated 02.07.2021 passed by the Commissioner of Customs (Appeals) is, therefore, liable to be set aside and is set aside. The appeal is, accordingly, allowed.

(Order Pronounced on **09.04.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)