CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

EXCISE Appeal No. 11426 of 2014- SM

[Arising Out Of Order-In-Original/Appeal No VAP-EXCUS-000-APP-465-466-13-14 Dated 09.01.2014 Passed By Commissioner Of Central Excise, Customs And Service Tax-VAPI]

Meeracotton And Synthetic Mills Pvt Ltd **...Appellant**
Survey No. 156/2, 157/2,
Near Goverment Boys Hostel,
Village : Surangi,
Silvassa
U T Of Dadra & Nagar Haveli

VERSUS

C.C.E. & S.T.-Vapi **...Respondent**
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat-396191

APPEARANCE:
Shri S J Vyas, Advocate for the Appellant
Shri. Himanshu P Shrimali, Superintendent (Authorized Representative) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO.A / 12359 /2023

DATE OF HEARING: 26.10.2023
DATE OF DECISION: 26.10.2023

RAJU

This appeal has been filed by M/s. Meeracotton and Synthetic Mills Pvt Ltd against confirmation of demand of duty and interest against the appellant.

2. Learned Counsel for the appellant pointed out that while the demand of duty and interest has been confirmed period beyond the normal period of limitation, the Commissioner (Appeals) has observed that there is no *mala fide* intention, suppression or mis-declaration. He argued that in these circumstances, the demand beyond the normal period could not have been confirmed.

3. Leaned AR relied on the impugned order.

4. I have considered rival submissions. I find that the impugned order clearly observes in para 9 as follows:

> *"9. It can be seen from the above provisions that the said Section provides for discharge of duty and interest by assessee on his own calculation and intimate authorities, who on being informed will not issue show cause notice. I find that only exception for the above referred provisions of Section 11A(2B)/Section 11A(2) would be in a case where the duty liability arises due to misrepresentation or suppression of facts with intent to evade duty. In the case in hand, it is undisputed that appellant has discharged the duty not paid along with interest, immediately on being pointed out by the department. Further, there cannot be mala fide intention alleged against the appellant in this case as they were declaring the clearances of waste yarn in their ER-1 returns specifically, which is not disputed by Revenue. On being pointed out by the department, the appellant immediately paid back the entire duty along with interest leviable thereon. Thus, I find that there was no need to issue any show cause notice to the appellant as the duty liability as has been calculated by the department, stood paid by the appellant along with interest before issue of show cause notice, in terms of Section 11A(2B) and Section 11A(2) ibid as applicable."*

4.1 In view of the Commissioner (Appeals) that there was no *mala fide* intention, suppression or mis-declaration etc,. I find that confirmation of demand beyond the normal period of limitation by this order cannot be justified.

5. In view of above, the impugned order confirming demand beyond the normal period of limitation is set aside. The appeal is allowed in above terms.

(Dictated & Pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

PALAK