Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 12999 of 2014 - DB

(Arising out of OIA-SUR-EXCUS-001-APP-36-14-15 dated 20/05/2014 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Standard Silk Mills **........Appellant**
V D Road,
Surat, Surat,
Gujarat

VERSUS

C.C.E. & S.T.-Surat-I **......Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat, Gujarat- 395001

APPEARANCE:
Shri Mukund Chauhan, Advocate for the Appellant
Shri R K Agarwal, Superintendent (AR) for the Respondent

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

Final Order No. 12597/2023

DATE OF HEARING: 19.10.2023
DATE OF DECISION: 09.11.2023

RAMESH NAIR

In the present case the issue involved is whether the appellant is liable to pay Excise duty under the Compounded Levy Scheme, when they have paid the duty on the actual production of the excisable goods.

2. Shri Mukund Chauhan, Learned Counsel appearing on behalf of the appellant made a detailed argument referring to the Hon’ble High Court judgment in their own case on this issue. He has also relied upon various judgments:

- Mahalaxmi Fibers Pvt. Ltd Vs. Union of India- 2019 (366) ELT 810 (GUJ.)
- Krishna Processprs Vs. Union of Inida- 2012 (280) ELT 186 (GUJ.)
- Beauty Dyers Vs. Union of India- 2004 (166) ELT 27 (Mad.)
- Commissioner of Central Excise Vs. Angadpal Indl. P. Ltd.- 2015 (325) ELT 228 (S.C.)

2.1 It is his submission that in the above judgments, it is held that even during the period of Compounded Levy Scheme the assessee can pay the duty on actual production basis. Therefore, in view of the above judgment the demand in the present case is not sustainable.

3. On the other hand Shri RK Agarwal, Learned Superintendent (AR) appearing on behalf of the revenue reiterates the findings of the impugned order.

4. On careful consideration of submission made by both the sides and perusal of record, we find that on the issue in hand the appellant's cases were also pending before Hon'ble High Court. And after passing of the adjudication order, the various judgments were delivered on the issue in hand by various High Courts and Tribunals, which were neither before the Adjudicating authority nor considered the same by the Authority. Therefore, in the changed circumstances of Law, we are of the view that matter needs to be reconsidered as whole in the light of the above development in the Law and judgments.

5. Accordingly, we set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order after affording the sufficient opportunity of personal hearing to the appellant. The appeal is allowed by way of remand to the Adjudicating Authority.

(Pronounced in the open court on 09.11.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha