

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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.535 of 2012

(Arising out of OIO-58/COMMR/2011 dated 29/07/2011 passed by
Commissioner of Central Excise-RAJKOT)

Prutesh Vallabhbhai Hirani

.....Appellant

Director Of M/s, Real Ceramic P Ltd,
Ghuntu Road, Morbi, RAJKOT, 363642

VERSUS

C.C.E. & S.T.-Rajkot

.....Respondent

Central Excise Bhavan,
Race Course Ring Road...Income Tax Office,
Rajkot, Gujarat-360001

APPEARANCE:

None appeared for the Appellant
Shri R P Parekh, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
 HON'BLE MEMBER (TECHNICAL), MR. RAJU
 Final Order No. A/ 12445 /2021**

DATE OF HEARING: 12.10.2021
DATE OF DECISION : 12.10.2021

RAMESH NAIR

Shri Paresh Sheth, learned counsel submitted a letter dated 1.10.2021 wherein, he submitted that this appeal is of the Director of the company of M/s Real Ceramic Pvt. Ltd. and the penalty on the director in this appeal was imposed with reference to the demand confirmed against the company. It was submitted that this tribunal vide order no. A/11683-11693/2013 dated 12.12.2013 decided the matter in favour of the company and the same was rectified vide Order No. M/11049-11059/2014 dated 3.3.2014. He submits that against the Final Order dated 12.12.2013, the department had filed appeal before the Hon'ble Supreme Court which was subsequently withdrawn on the ground of monetary limit. This position has been fairly conceded by the learned Authorized Representative Shri R P Parekh.

02. Considering the submission made by learned advocate in his letter dated 1.10.2021, we find that in the present appeal penalty against the director is consequent to the demand which was confirmed by the adjudicating authority in the case of M/s Real Ceramic Pvt. Ltd. Since the case of the company has been settled in favour of the company and the

revenue has withdrawn the appeal from the Supreme Court, the penalty on the Director which is consequential to the demand is also not tenable.

03. Accordingly, the penalty is set aside. Appeal is allowed.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul