

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

REGIONAL BENCH – COURT NO. 01

Excise Appeal No. 10650 of 2015

[Arising Out Of OIA-AHM-EXCUS-001-APP-80-2014-15 Dated- 30/12/2014 Passed By
Commissioner Of Commissioner Of Central Excise-AHMEDABAD-I]

Spycra Polytech

Plot No. 16/1 And 16/2,
Shree Ram Estate, Odhav,
Ahmedabad, Gujarat

.....Appellant

VERSUS

C.C.E.-Ahmedabad-i

C. Ex Bhavan, Nr Panjrapole & Polytechnic,
Ambavadi, Ahmedabad,
Gujarat-380015

.....Respondent

APPEARANCE:

Shri S. J Vyas, Advocate for the Appellant
Shri. Rajesh R Kurup, Superintendent (Authorized Representative) for the
Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. A / 10560 / 2024

DATE OF HEARING: 06.03.2024

DATE OF DECISION: 06.03.2024

SOMESH ARORA

Heard the matter, the issue pertains to Rule 8(3A) prior to its substitution by Notification No. 19/2014-CE dated 11 July, 2014. The sub Rule 3A of Rule 8 invoked against the assessee provided that in case of default of any payment beyond 30 days from the due date assessee will henceforth pay consignment /invoice wise duty in future and not at the end of the month. Appellant was accordingly issued show cause notice,

demanding whatever duty had been paid but on a monthly basis by them during default period and demanding interest as well as penalty.

2. The Learned advocate brings to the notice of this Court that the relevant provision was struck down by the Hon'ble Gujarat High Court in its decision in the matter of M/s. INDSUR GLOBAL LTD. VS. UNION OF INDIA & others as reported in 2014 (12) TMI 585. It was his submission that striking down of the provision has been further endorsed by various High Courts as well as this Tribunal and the same is binding on the department as being in the jurisdiction of Hon'ble Gujarat High Court.

3. Confronted with above legal position, learned AR fairly concedes that the decision of Hon'ble Gujarat High Court was not available before the lower authorities. This Court finds that the position has been correctly stated by the adversarial sides and the matter deserves to be remitted back to the original authority to consider the decision of Hon'ble Gujarat High court and provide relief to the party if found due in the matter as per Court ruling and prior to striking down of relevant provision.

4. Appeal is allowed by way of remand.

(Dictated and Pronounced in the open)

(SOMESH ARORA)
MEMBER (JUDICIAL)