Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad
REGIONAL BENCH- COURT NO.3

Excise Appeal No. 814 of 2012

(Arising out of OIO-03/DEMAND/CEX/COMMR/BRC-I/2012 dated 20/09/2012 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-VADODARA-I)

K J Gupta ....**Appellant**
M/S, Jsl Industries Ltd
Village : Mogar,
Anand, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-I ....**Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat - 390007

WITH

Excise Appeal No. 815 of 2012

(Arising out of OIO-03/DEMAND/CEX/COMMR/BRC-I/2012 dated 20/09/2012 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-VADODARA-I)

K K Thakkar ....**Appellant**
Director & Corporate Advisor, M/S, Jsl Industries Ltd
Village : Mogar,
Anand, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-I ....**Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat - 390007

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

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

Final Order No. A/ 10728-10729 /2022

DATE OF HEARING: 23.06.2022
DATE OF DECISION: 23.06.2022

RAMESH NAIR

The brief facts of the case are that both the appellants Shri K.K Thakkar, Director and Shri K.J Gupta, CEO of M/S, JSL Industries Ltd, Anand. The case against the M/S, JSL Industries Ltd was made out on the issue of Central Excise valuation. The company was adopting the valuation as per section 4 of Central Excise Act, 1944 whereas the department's claim is that value should be determined in terms of section 4A. The Adjudicating Authority confirmed the demand of differential duty and also imposed a penalty on both the present appellants under Rule 26(1) of Central Excise

Rules, 2002. The main case of the company M/S, JSL Industries Ltd under Appeal No. 813 of 2012 has been settled under SVLDR Scheme and their appeal stood disposed of vide CESTAT Final Order No A/10992/2021 dated 02.03.2021.

2. When the matter was called out none appeared for the appellants.

3. Shri R.P Parekh, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order and submits that there is a suppression of fact in evasion of excise duty by the company and the entire affairs handled by both the appellants. Therefore, the penalty under Rule 26(1) was rightly imposed.

4. I have carefully considered the submission made by Learned AR and perused the records. I find that there is no dispute that the company M/S, Jsl Industries Ltd have been clearing their goods on payment of excise duty though valuing the goods under section 4 and they were issuing the central excise invoices. The only dispute is that whether the goods should be valued under section 4 or section 4A. The company's stand was that they were supplying goods to industries therefore, they were under belief that goods should be valued under section 4. In the peculiar facts of this case, I do not find any malafide intention on the part of these appellants. Accordingly, I set aside the penalty imposed on both the appellants. Appeals are allowed.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)