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

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 11151 of 2015

(Arising out of OIO-SIL-EXCUS-000-COM-028-14-15 Dated-30.03.2015 passed by Commissioner of Central Excise, Customs and Service Tax-SILVASA)

CHANDRASHEKHAR CHINCHOLIKAR **........Appellant**
ASSISTANT MANAGER OF M/S, RAJ PETRO SPECIALITIES P LTD,
SURVEY NO. 143/2/3, MADHUBAN DAM ROAD,
VILLAGE : KARAD, SILVASSA,
U T OF DADRA & NAGAR HAVELI

VERSUS

C.C.E. & S.T.-SILVASA **........Respondent**
COMMISSIONER CENTRAL EXCISE, CUSTOMS & SERVICE TAX, SILVASSA,
4TH FLOOR, ADARSH DHAM BUILDING, VAPI DAMAN ROAD VAPI
OPP. OLD TOWN POLICE STATION, VAPI-GUJARAT

APPEARANCE:
Shri Chandrashekhar Chincholikar (Ex-Employee) Appellant himself
Shri R. Parekh, Authorised Representative for the Respondent

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

Final Order No. A/ 10747 /2022

DATE OF HEARING:27.06.2022
DATE OF DECISION:27.06.2022

RAMESH NAIR

The fact of the case is that the appellant has been imposed penalty of Rs. 2 Lakhs under Section 77 of the Finance Act, 1994 in connection with Service Tax demand case against M/s Raj Petro Specialties Private Limited wherein vide OIO No. SIL-EXCUS-000-COM-028-14-15 dated 30.03.2015 was passed by the Commissioner of Central Excise, Customs & Service Tax - Silvassa. The main case of the Company i.e. M/s Raj Petro Specialties Private Limited came up before this Tribunal in Appeal No. ST/11055/2015-DB, this Tribunal vide Final Order No. A/11768/2018 remanded to the Commissioner. In the remand proceedings, the Commissioner vide OIO No. DMN-EXCUS-000-COM-023-19-20 dated 20.02.2020 dropped the proceedings initiated vide Show cause notice dated 01.10.2013.

2. Shri Chandrashekhar Chincholikar, appellant himself appeared and argued that since the demand against the main company is not existing as the proceedings has been dropped, this penalty being consequential is also not sustainable.

3. Shri R.P. Parekh, learned (Superintendent) Authorized Representative fairly concedes that the proceedings of the same show cause notice where the penalty was proposed has been dropped.

4. On careful consideration on the submission made by both the sides and perused the records, we find that the penalty on the appellant for Rs. 2 Lakhs under Section 77 of Finance Act, 1994 have been imposed for an offence of non-payment of service tax by M/s Raj Petro Specialties Private Limited the case of which has been dropped by the adjudicating authority. Hence, the penalty on the appellant would also not sustain. Accordingly, the penalty is set aside. Appeal is allowed.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Neha