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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.454 of 2012

(Arising out of OIA-79-81/2012/COMMR-A-/RBT/RAJ dated 22/02/2012 passed by Commissioner of Central Excise, Customs and Service Tax-RAJKOT)

Kailash P Patel **........Appellant**
C/O. Of M/S, Kavita Brass Industries,
Plot No. 510, Gidc, Phase-Ii, Dared,
JAMNAGAR, GUJARAT

VERSUS

C.C.E. & S.T.-Rajkot **.......Respondent**
Central Excise Bhavan,
Race Course Ring Road...Income Tax Office,
Rajkot, Gujarat-360001

With

Excise Appeal No.455 of 2012

(Arising out of OIA-79-81/2012/COMMR-A-/RBT/RAJ dated 22/02/2012 passed by Commissioner of Central Excise, Customs and Service Tax-RAJKOT)

Sandip P Patel **........Appellant**
C/O. Of M/S, Kavita Brass Industries,
Plot No. 510, Gidc, Phase-Ii, Dared,
JAMNAGAR, GUJARAT

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 G. Kirupanandan, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
Final Order No. A/ 11019-11020 /2022

DATE OF HEARING: 23.08.2022
DATE OF DECISION : 23.08.2022

RAMESH NAIR

These appeals are arising out of the Order of Commissioner (Appeals) whereby, the personal penalty under Rule 26 was reduced from Rs.75,000/- to Rs.25,000/- on Shri Kailash P Patel and from Rs.1 Lac to Rs.25,000/- on

Shri Sandip P Patel. These penalties were imposed for the involvement of wrongful availment of SSI exemption Notification No.8/2003-CE by M/s. Kavita Brass Industries.

02. None appeared on behalf of the appellants despite several opportunities given on the following dates:-

- 08.07.2019, 29.08.2019, 03.10.2019, 15.11.2019, 18.12.2019, 30.01.2020, 08.04.2022, 07.07.2022, 28.07.2022,

Since inspite of giving ample of opportunities as stated above, the appellant has not turned up for appearing in their case therefore, the appeals are taken up for disposal.

03. Shri G. Kirupanandan, Learned Superintendent (AR) appearing on behalf of the revenue submits that there is no dispute that the involvement of both the appellants has been established in abatement of evasion of duty by company M/s. Kavita Brass Industries however, despite this the Commissioner (Appeals) taking a lenient view reduced the penalties substantially to Rs.25,000/- therefore, there is no further scope for either waiver of penalty or further reduction.

04. I have carefully considered the submission made by learned AR and perused the records. I find that the involvement of both the appellants have been discussed by the learned Commissioner (Appeals) and there is no serious rebuttal of the charge of abatement in evasion of duty by the appellant. However, the appellant have raised the issue of quantification particularly, it is their claim that there is substantial value which is related to trading of goods and the same should not be included in the aggregate value for the purpose of SSI exemption. I find that the main company on which excise duty demand was raised namely M/s. Kavita Brass Industries, they have got their case settled under 'SABKA VISHWAS LEGACY DISPUTE RESOLUTION SCHEME-2019'. However, the quantification of duty has not been done, in this position the correct amount of liability at least for the purpose of imposition of penalty on these two appellants is not available on record. In this peculiar facts, I am of the view that the penalty of Rs.25,000/- also appears to be harsh. I am also of the view that the reduction in the penalty upheld by the learned Commissioner (Appeals) shall meet the ends of justice. Accordingly, I reduce the penalty on both the appellant from Rs.25,000/- to Rs.10,000/- each.

05. With the above observation, the impugned order stands modified to the above extent. Appeals are partly allowed in the above terms.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Mehul