CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No. 498 of 2012

(Arising out of OIA-AHM/STC/003/COM/020/2012 dated 26/06/2012 passed by Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD-III)

C.C.E. & S.T.-Ahmedabad-III **........Appellant**

CUSTOM HOUSE... 2ND FLOOR,
OPP. OLD GUJARAT HIGH COURT, NAVRANGPURA,
AHMEDABAD, GUJARAT-380009

VERSUS

AVAYA GLOBAL CONNECT LIMITED **........Respondent**

E/1/1, GIDC ELECTRONICS ESTATE,
SECTOR-25, GANDHINAGAR-GUJARAT

APPEARANCE:

Shri. Vijay G. Iyengar, Superintendent (Authorized Representative) for the Respondent
None appeared foe the Appellant

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

Final Order No. A/ 11172 /2022

DATE OF HEARING: 26.09.2022
DATE OF DECISION: 26.09.2022

RAMESH NAIR

The revenue filed this appeal against imposition of penalty under section 76 despite the fact that the penalty under Section 78 was also imposed. When the matter was called out, none appeared on behalf of the Respondent. Heard Shri Vijay G. Iyengar, learned (Superintendent) Authorized Representative appearing for the Revenue who reiterates the grounds of appeal.

2. On careful consideration of the submission made by learned Authorized Representative and perusal of the records, we find that the penalty under Section 76 and 78 cannot be imposed simultaneously. This issue is no longer res integra as the same has been decided by the Jurisdictional High Court in the case of **Raval Trading Company 2016 (42) STR 210 (Gujarat)** that when the penalty was imposed under Section 78, penalty under Section 76 cannot be imposed. Following the said judgement, we find that the appeal has no merit, accordingly, dismissed.

(Dictated and pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Neha