CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 2

EXCISE APPEAL NO. 10087 OF 2017

(Arising out of OIO-DMN-EXCUS-000-COM-024-16-17 Dated-06/09/2016 passed by Commissioner of Central Excise, Customs and Service Tax-DAMAN)

SHRI GOPAL R SHAH **Appellant**
Director Of M/s Amplas Polymers Pvt Ltd. Plot No. 644/26, 27, 28,
Agarwal Industrial Estate, Off. Somnath Road, Dabhel,
Daman, Daman & DIU

Vs.

C.C.E. & S.T.-DAMAN **Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road,
Opp. Vapi Town Police Station, Vapi,Gujarat-396191

WITH

EXCISE APPEAL NO. 10354 OF 2017

(Arising out of OIO-DMN-EXCUS-000-COM-024-16-17 Dated-06/09/2016 passed by Commissioner of Central Excise, Customs and Service Tax-DAMAN)

AMPLAS POLYMERS PVT LTD **Appellant**
Plot No. 644/26, 28, Agarwal Industrial Estate,
Off. Somnath Road, Dabhel, Daman, Dama, (UT)

Vs.

C.C.E. & S.T.-DAMAN **Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road,
Opp.Vapi Town Police Station, Vapi,Gujarat-396191

Appearance:
Shri Jagdish Surti, Advocate for the Appellant
Shri Anand Kumar, Superintendent (AR) for the Respondent

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

FINAL ORDER NO. 12867-12868/2024

Date of Hearing/Decision : 25.11.2024

Learned advocate states there are various documents not supplied to them in this matter and also penalty was imposed on them without due consideration of natural justice, even when they were not the main accused and only had the role as a job worker receiving the alleged material. The main accused is not before us.

2. Learned advocate pleads that at this stage since the matter is fairly old, it is not pressing for remand and has no serious objection if its request for quantum reduction of penalty of Rs. 15,00,000/- imposed under rule 26(1) of Central Excise Rules, 2002 is considered for the company and the penalty imposed on Shri Gopal R Shah who was a director in the Company and has been subjected to a penalty of Rs. 10,00,000/- is considered for deletion. He seeks to place reliance on the decisions of Neptune Spin Fab Pvt Ltd. as reported 2009 (241) ELT 467 (Tri.Ahmd.) and Globe Rexine Pvt Ltd as reported 2006 (203) ELT 632 (Tri.Chennai).

With the help of above citations, he pleads that penalty under rule 26(1) cannot be maintained both against the director as well as the company.

3. Learned AR reiterates the findings of the lower authority and states that the penalty on the Company was imposed under rule 26(1) and Rule 15 of Cenvat Credit Rule, 2004 and on the director under Rule 26. He leaves the matter to the direction of the Court.

4. This court has considered the rival submissions. It agrees on the basis of case law quoted which are cited (supra) by the appellant side to rule that penalty under Rule 26(1) both on company as well as director cannot be maintained. Penalty imposed on Shri Gopal R Shah is therefore liable to be set aside. However, the penalty imposed on Amplas Polymers Pvt Ltd is being reduced. Same is therefore being reduced from Rs. 15,00,000/- to 1,12,500/-. With the above modification the appeal M/s. Amplas Polymers

Pvt Ltd is partly allowed and that appeal Gopal R Shah is allowed with consequential relief.

5. Appeal disposed of in above terms.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Dharmi