

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

REGIONAL BENCH-COURT NO.3

EXCISE APPEAL NO. 11858 of 2018-SM

(Arising out of OIA-CCESA-SRT-APPEALS-PS-630-2017-18 dated 19/02/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Shilpa Polypack Pvt Ltd
206/2-3, Gidc Estate, Halol,
PANCHAMAHAL, GUJARAT

.....Appellant

VERSUS

Commissioner of C.E. & S.T.-Daman
3RD FLOOR...ADARSH DHAM BUILDING, VAPI-DAMAN ROAD, VAPI
OPP.VAPI TOWN POLICE STATION,
VAPI, GUJARAT,396191

.....Respondent

APPEARANCE:

Shri Ajay Banerjee, Advocate appeared for the Appellant-Revenue
Smt. Sunita Menon, Superintendent(AR) appeared for the Respondent-Assessee

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

Final Order No.13173/2024

DATE OF HEARING: 12.12.2024
DATE OF DECISION: 12.12.2024

RAMESH NAIR

In this appeal the appellant seeks waiver of penalty imposed under Rule 26, in connection with the demand confirmed against Vraj Packaging Pvt Ltd.

2. Shri Ajay Banerjee, Learned Advocate appearing on behalf of the appellant submits that the demand case against Vraj Packaging Pvt Ltd has been settled under SVLDRS,2019 and this Tribunal has disposed of the appeal vide Order No. A/11013/2021 dated 10.03.2021. he submits that since the main case has been settled, co-noticee are not liable for penalty. He placed reliance on the judgment of this Tribunal in the case Shri Paresh B Patel Final Order No.12569/2024 dated 29.10.2024.

3. Smt. Sunita Menon, Learned Superintendent(AR) appearing on behalf of the Revenue, reiterates the findings of the impugned order.

4. On careful consideration of the submission made by both the sides and on perusal of record, I find that in the judgment cited by the Learned Counsel, particularly, a Division Bench judgment in the case of M/S. SIEMENS LTD, issue is settled that in case the main party's case, where the demand has been confirmed, is settled under SVLDRS,2019, penalty on the co-noticee will not sustain. As regard the judgment relied by the Learned AR, since it is Single Member judgment and thereafter, the Division Bench has given the judgment which prevails over the Single Member Bench. Therefore, the same is distinguished.

5. Accordingly, the penalty is set aside, appeal is allowed.

(Dictated and pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)