CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 960 of 2012-DB

[Arising out of Order-in-Original/Appeal No 03-MP-2012 dated 09.10.2012 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I]

Raymond Limited .... **Appellant**
Jekegram, Pokharan Road No. 1,
THANE, MAHARASHTRA-400606

VERSUS

Commissioner of Central Excise & ST, Surat-i .... **Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar, Surat, Gujarat-395001

APPEARANCE :

Shri Suyog Bhave, Advocate for the Appellant
Shri Dinesh M. Prithiani, Assistant Commissioner (AR) for the Revenue.

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

DATE OF HEARING/ DECISION: 23.11.2022

FINAL ORDER NO. A/11737 / 2022

RAMESH NAIR :

This appeal is directed against order-in-original No. 3/MP/2012 dated 09.10.2012 whereby penalty of Rs. 50 lakhs imposed on the appellant under Rule 25 of Central Excise Rules, 2002. This penalty was imposed consequent to the demand of duty raised against M/s. ABG Shipyard.

2. Shri Suyog Bhave, learned Counsel appearing on behalf of the appellant at the outset submits that the case of the ABG Shipyard has been decided in their favour vide order No. A/10326-10331/2014 dated 03.03.2014. He submits that since the demand itself was set-aside, the penalty in the present case, being consequent to the said demand, is also not sustainable.

3. Shri Dinesh M. Prithiani, learned Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Considering the submissions made by both the sides and perusal of record, we find that in the present case, the penalty under Rule 25 was imposed consequent to confirmation of demand against ABG Shipyard. The said demand of ABG Shipyard has been set-aside by this Tribunal allowing their appeal vide order No. A/10326-10331/2014 dated 03.03.2014. Therefore, the penalty in the present case, being consequential to confirmation of demand, shall also not sustain. Accordingly, the penalty is set-aside and appeal is allowed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

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