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

REGIONAL BENCH- COURT NO. 02

Excise Appeal No. 10976 of 2017
(Arising out of OIO-DMN-EXCUS-000-COM-039-16-17 Dated- 09/02/2017 passed by Commissioner of Central Excise and Service Tax-DAMAN)

Reliance Stainless Steel **........Appellant**
C/O Mis. Sikkim Ferro Alloys Ltd 2nd Floor, Apdara Cinema Bldg
Dr. D.B. Marg, Grant Road (E), MUMBAI, MAHARASTHRA

VERSUS

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

WITH
Excise Appeal No. 10977 of 2017
(Arising out of OIO-DMN-EXCUS-000-COM-039-16-17 Dated- 09/02/2017 passed by Commissioner of Central Excise and Service Tax-DAMAN)

M K Steel Centre **........Appellant**
20/21, Labh Niwas, 316, Nanu Bhai Desai Raod
Mumbai, Maharahstra

VERSUS

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

AND
Excise Appeal No. 10978 of 2017
(Arising out of OIO-DMN-EXCUS-000-COM-039-16-17 Dated- 09/02/2017 passed by Commissioner of Central Excise and Service Tax-DAMAN)

Mahendra R Shah **........Appellant**
Director Of M/S Smc Stainless Alloy Pvt Ltd
311,S V. P. Road Kanji Mansion 2nd Floor Opp Khetwadi
MUMBAI, MAHARAHTRA

VERSUS

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

APPEARANCE:
Shri. V.M. Doipohode, Advocate for the Appellant
Shri. M.P. Solanki, Assistant Commissioner (AR) for the Respondent

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

Final Order No. 10053-10055/ 2025

DATE OF HEARING:24.01.2025
DATE OF DECISION:24.01.2025

01. Learned Advocate appearing for the matters of M/s. M K Steel Centre and Mahendra R Shah indicates that he is no more representing the matter of M/s. Reliance Stainless Steel. In respect of matter of M/s. Reliance Stainless Steel, a request has been received from the partner of the firm indicating that they need adjournment, as the matter is very old and the advocate on record has withdrawn from the matter. In this background, this Court takes up the matters involving identical issue including of M/s. Reliance Stainless Steel (on merits). The Learned Advocate appearing for M K Steel Centre and Mahendra R Shah states the issue involved in this case is that as to what will happen to the other parties if the main party has obtained the settlement under the SVLDRS-2019 Scheme. Seeking relief for the client, he seeks to place reliance upon the decision of Prakash Steelage Ltd Vs. C.C.E & S.T- Bharuch vide Final Order No. 12591-12595/2024 dated 06.11.2025.

02 The Learned AR while agreeing that the same is the situation with M/s. Reliance Stainless Steel reiterates the findings of the lower authority.

03. This Court is bound by the Division Bench decision quoted by the learned advocate specially para 4 & 5 of Prakash Steelage Ltd (cited supra) reproduced below:-

> *"4. On careful consideration of the submission made by both the sides and perusal of the records, we find that as of now it is settled that once the duty demand case is settled under SVLDRS-2019, as per Scheme itself, there is a waiver of penalties on the main assessee against whom the demand was confirmed as well as on other co-noticees. Some of the judgments on this issue are reproduced below:*
>
> - ***Anil K Modani vide Final Order No. A/87176-87178/2023 dated 30.11.23***
>
> *" We find that the decision in re Indi-Swift Laboratories Ltd, relied upon by the Learned Authorized Representative, was in the specific context of „conjunctions" employed in rule 14 of CENVAT Credit Rules, 2004 and the consequence thereof for recovery of credit along with interest. Chapter V of Finance Act, 2019 expressly pertains to „legacy dispute resolution scheme" which considered deposit of duty involved in dispute to suffice for grant of relief of interest, penalty and any other consequence under Central Excise Act, 1944 or Finance Act, 1944. The scheme is all about „tax dues" which itself has been set out in section 123 of Finance Act, 2019 with all the alternatives restricting themselves to the total amount of duty or total amount of duty in dispute, as*

the case may be. Furthermore, section 124 of Finance Act, 2019 specifies relief as percentage of „tax dues" and of late fee/penalty should those be the only detriments contemplated in a proceeding. It would, therefore, appear that a person imposed with penalty would be eligible to be „declarant" subject to there being no demand of tax pending in the impugned proceedings. 6. Therefore, to the extent that the impugned order upheld recovery of duties under section 11A of Central Excise Act, 1944 none of the individual appellant herein would have been eligible to be declarant; the scheme itself does not acknowledge the existence of such appellant even though the scheme is intended to erase the detriment of penalty in each and every case. It is on record that the principal-noticee has been accorded the prescribed relief including erasure of penalties arising there from. Even though the appellants herein could not, at the time of existence of the scheme have derived the benefits from the coverage by the scheme, the intent and purpose of the scheme being collection of the duty or some percentage thereof, and forgoing interest, fine and penalty, the disposal of the application of M/s JSW Ispat Steel Ltd renders the continuance of the penalty against the three appellants to be not in conformity with the relief scheme. Accordingly, they are eligible for erasure of the penalties against them. 7. For the above reasons, we allow these appeals and set aside the impugned order."

• Subhash Panchal vide Final Order No. 11014 of 2024 dated 08.05.2024

"In this appeal the appellant has challenged the personal penalty of Rs.50,000/- under Rule 26 of Central Excise Rules, 2002. The penalty was imposed on the charge of abating the evasion of duty by M/s. Atlas Plastics. When the matter was called out written submission was placed on record by the appellant wherein it is submitted that the main party's case of M/s. Atlas Plastics has been settled under SVLDRS 2019 and this Tribunal has disposed of appeal vide order No. 12602/2023 dated 07.11.2023 in the light of the settlement of the case of main party, hence the personal penalty of appellant be set aside. It is also submitted that the appellant has not played any role for evasion of duty by M/s. Atlas Plasti.

2. Shri P Ganesan Learned Superintendent AR appearing for the revenue reiterates the finding of the impugned order.

3. We have carefully considered the submission made by the Learned AR and the Written Submission dated 31.01.2024 submitted by the appellant. Since, the appellant has been penalized under Rule 26 in connection with the duty evasion made by M/s. Atlas Plastics and their case has been settled under SVLDRS and the appeal was disposed by this Tribunal vide order dated 07.11.2023, the personal penalty of the appellant is not sustainable in the light of the following judgments:-

• Shri V.K. Aggarwal and Shri J.K. Aggarwal v. CCE, New Delhi - 2023 (9) TMI 178 - CESTAT NEW DELHI

• M/s. Siemens Ltd. (formerly known as M/s. Morgan Construction Co. Pvt. Ltd.), Mr. Sunil Chellani Vs. Commissioner of Central Excise, Mumbai-III - 2023 (5) TMI 377 – CESTAT-Mumbai

• Shri B.V. Kshatriya Vs. Commissioner of GST & CE, Nashik - 2023 (5) TMI 858 – CESTAT Mumbai • Mr. Dinesh Kanoria Vs. Commissioner of Central Excise, Thane-I - 2022 (12) TMI 1408 – CESTAT Mumbai

• Shri Ramesh Despande and Shri Debdutta Chatterjee Vs. Commissioner of Central Excise, Nagpur - 2021 (7) TMI 1307 – CESTAT – Mumbai

• P.B. Vyas and Ors. Vs. Commissioner of Central Excise, Mumbai-III -2021 (3) TMI 1305 – CESTAT Mumbai • Sri Sasthi Charan Banerjee Vs. Commissioner of CGST & CX, Bolpur Commissionerate, - 2022 (12) TMI 1437 – CESTAT Kolkata In view of the above judgments, it is settled that once the main

case of duty evasion is settled under SVLDRS 2019 the penalty on the Co-appellant shall not survive.

4. Accordingly, the penalty is set aside. The Appeal is allowed."

In view of above judgments given by the two coordinate Division Benches, the penalties imposed on the co-noticees in a case where the main noticee against whom the demand is confirmed, the case is settled under SVLDRS then in respect of other co-noticees penalty will not sustain even if they have not filed a declaration under SVLDRS-2019 and decision on the issue of SVLDRS-2019 in the case of Four R Associates and others reported as 2023 (11) TMI 9 CESTAT-Chennai given by Single Member Bench whereas the aforesaid cited decisions are given by Division Bench. Therefore, Division Bench judgment will prevail over Single Member Bench.

5. Accordingly, the penalties on the appellants are not sustainable. Hence the same are set aside. Appeals are allowed."

05. In view of above decision of Division Bench of Ahmedabad only, this Court is inclined to follow the same and therefore holds that the penalty of all the three appellants are liable to be set aside and appeals are allowable

06. Appeals are allowed.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi