CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 1

EXCISE APPEAL NO. 10797 OF 2015

[Arising out of OIO-VAP-EXCUS-000-COM-018-14-15 dated 22/01/2015 passed by Commissioner of Central Excise, Customs and Service Tax-SILVASA

SANJAY MISHRA **Appellant**
C/o, Standard Greases & Specialities P Ltd,
83/1 & 2, Village : Khadoli,
Silvassa, U T of Dadra & Nagar Haveli

Vs.

COMMISSIONER, CGST, CUSTOMS & CENTRAL EXCISE -CGST & CENTRAL EXCISE DAMAN **Respondent**
Commissioner Central Excise, Customs & Service Tax, Silvassa,
4th floor, Adarsh Dham Building, Vapi Daman Road Vapi
Opp. Old Town Police Station,
Vapi, Gujarat

__Appearance__:
Shri Mihir Deshmukh & Abhijit Singh, Advocates for the Appellant
Shri P Ganesan, Superintendent (AR) for the Respondent

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

__FINAL ORDER NO. 10100/2025__

Date of Hearing/Decision : 06.02.2025

The learned advocate appearing for the party states that the main party in this case i.e. M/s. Standard Greases Specialities Pvt Ltd was given relief by the division bench of this Tribunal in the matter of M/s. Standard Greases and Specialities Pvt Ltd Vs. CCE & ST - Silvasa in final order no. A/10583-10584/2019 even on merits. Consequently, the penalty proposed by the department against the main company was also set aside. He relied upon para 5 of the aforesaid order in this regard is reproduced below:

> *"5. Thus, in view of the facts of the case and in the light of aforesaid judgment we hold that the Appellant eligible for cenvat credit on impugned Bills of Entry. We thus set aside the impugned orders and allow the appeals with consequential reliefs, if any."*

1.1 He also states that it is settled law, and in the similar circumstances penalty proposed against the director as well as the company cannot sustain and if the penalty is set aside against the company on merits, there is no scope of penalization of director.

In support he relies on the decision in the matter of Shaik Iqbal Mohammed Vs. Commissioner of Custom Central Excise and Service Tax Hyderabad as reported in 2019 (25) GSTL 545 (Tri.-Hyd.) para 11 of the decision is reproduced below:

> "11. *Coming to the time bar though we hold that the demands are not sustainable on merits, but we also find that the appellant has disputed the demands on limitation also. We find that the Appellant was in correspondence with the Department from 2006-07 and the Department was in knowledge of every detail of ingredients, nature of product, the classification. The appellant has adduced the copies of such correspondence with the appeal memo which clearly shows that there was no suppression of facts by the Appellant. In such case we hold that the demands made against the appellant by invoking extended period of limitation are also time barred. As we are holding that on merits as well as limitation there is a case in favour of appellants, question of imposition of penalty on the individual does not arise. Penalty on Director set aside."*

2. Learned AR confronted with the aforesaid decision, reiterates the findings of the Commissioner to justify the penalty.

3. This court has considered rival submissions and finds itself in agreement with the ratio of the decision cited *(supra)* by the learned advocate and finds that in the facts and circumstances of this matter, penalty as directed cannot be sustained. The same is accordingly set aside with the consequential relief to the party.

4. Appeal is allowed.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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