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

REGIONAL BENCH- COURT NO.1

Excise Appeal No. 10468 of 2017

(Arising out of OIO-SIL-EXCUS-000-COM-054-16-17 dated 06.12.2016 passed by Commissioner of Central Excise, Customs & Service Tax - Silvasa)

Shri Ajay Vasant Kuralkar **...Appellant**
Manager cum authroised Signatory,
M/s Alok Industries Ltd., Plot No. 103/2
Madhuban Dam Road, Rakholi Silvassa
Dadra Nagar Haveli (UT)

VERSUS

CGST & Central Excise, Daman **...Respondent**
Customs & Service Tax, Daman,
5th Floor, GST Bhawan, RCP Compound
Vapi, Gujarat-396191

APPEARANCE:
Ms. Dimple Gohil, Advocate appeared for the Appellant
Shri Anand Kumar, Superintendent (AR) appeared for the Respondent

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

FINAL ORDER NO. 10137 /2025

DATE OF HEARING: 24.02.2025
DATE OF DECISION:24.02.2025

SOMESH ARORA

Learned Advocate appearing for the party states that the main company has approached NCLT and is presently under liquidation. The present appellant which is her client was an authorized signatory at the relevant time. She states that the issue basically involved on merits was whether the manufacturer of textile which was the employer company of its client can avail full exemption under Notification No. 30/2004-CE as well as clear similar or dissimilar goods on payment of duty under notification No. 29/2004-CE, simultaneously. She states that Circular No. 795/28/2004-CE dated 28.07.2004 clarifies the same issue at serial No. 1 of the issues framed and states that both being independent Notifications, there was no restriction on availing both, simultaneously. She states that this proposition was pointed out before lower authorities also and the same was not considered. Further, she points out that the question is clearly of interpretation and even the statement recorded by the officer gives out that the interpretation adopted by her client was not same as that of the Revenue. If that be so, she states that in the instant case, the matter was one of interpretation, which too is in their favour by virtue of Board's Circular as cited supra. Further she states that the employee has not benefitted in any way by interpreting it in certain manner and not in another manner as revenue states. Therefore, in any case, there can be no cause for imposition of penalty as no financial benefit of any kind or support to evasion of duty has been provided by her client.

2. Learned Authorised representative reiterates the findings of the lower authorities and fairly states that the Circular No. 795/28/2004-CE dated 28.07.2004 could not be considered by lower authorities.

3. This court has considered the rival submissions. It finds weight in the submissions of the learned advocate that in the facts and circumstances of the matter, her client does not deserved to be penalized, as there was no wrongful intent and it was a question of interpretation only. This court considers it fit to set aside the penalty in the light of above. The same is set aside. Appeal allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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