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

REGIONAL BENCH- COURT NO. 02

CUSTOMS Appeal No. 10337 of 2023

[Arising Out Of AHM-CUSTM-000-COM-032-22-23 Dated- 17/02/2023 passed by Commissioner of Customs, Ahmedabad)

SNEHRAJ NOTEBOOK INDUSTRIES **.....Appellant**
62, Mahagujarat Industries
Nagarasarkhej Bavla Highway Moriya,
Ahmedabad, Gujarat-382210

VERSUS

Commissioner of Customs-Ahmedabad **.....Respondent**
Custom House, Near All India Radio
Navrangpura, Ahmedabad-380009

APPEARANCE:
Shri. Ashish Jain & John Christian, Consultant for the Appellant
Shri. Sanjay kumar, Superintendent (AR) for the Respondent

CORAM:
HON'BLE MR. R.MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10190 /2025

DATE OF HEARING:17.03.2025
DATE OF DECISION:17.03.2025

R. MURALIDHAR

The appellant is the manufacturer of "Exercise Note Books" and they have supplied the same to M/s. Print Zone on payment of appropriate central Excise Duty. Finding that M/s. Print Zone has imported capital goods using EPCG licence and they were using the goods procured from the appellant and showing that they are discharging the Export Obligation, proceedings were initiated against M/s. Print Zone as well as on the present appellant M/s SNEHRAJ NOTEBOOK INDUSTRIES as a co-noticee. The allegation of the department is that present appellant was not declared as supporting manufacturer in the EPCG licence. The goods supplied by them to Ms/. Print Zone was being misused by them towards fulfilment of Export Obligation. Therefore, the Revenue alleged that the appellant has abetted in contravention of the provisions of Section 113 (i) of the Customs Act, 1962. After due process, the adjudicating authority imposed penalty of Rs. 2,00,000/- under Section 114 (iii) and Rs. 1,00,000/- under Section 117 of the Customs Act, 1962 on the appellant.

2. Being aggrieved, the appellant has filed the present appeal before the Tribunal.

3. The Learned Consultant appearing on behalf of the appellant submits that the activity undertaken by them does not amount to contravention of Section 113(i) of the Customs Act, 1962. They draw our attention to the invoices issued by them (page 116, 117 & 118 of the Appeal Book). They point out that in the first case, they were under SSI Exemption and Excise Duty was not paid but in other two invoices, they have paid the Excise Duty @ 2% of the value of the goods. In their invoices, they have shown the details of their Excise Registration Number, Range, division and Commissionerate details. They have also taken us to page No. 119 wherein the excise Returns filed by them are annexed.

3.1 In view of the factual evidence, the Consultant submits that they were not aware as to whether M/s. Print Zone has misused EPCG licence or not. They only knew that M/s. Print Zone was getting the goods exported through some third party and accordingly, the goods were being directly dispatched to the third party after discharge of Excise Duty. In view of these facts, they pray that the impugned order may be set-aside and appeal may be allowed.

4. The Learned AR reiterates the finding of the learned adjudicating authority and particularly refers Para 40.5 of the Adjudication order and submits that the appellant is responsible for the contravention of the EPCG holder Print Zone. The said para is reproduced below:-

> *"40.5 The statement of Shri Nareshbhai Savjibhai Aghara, Partner of M/s. Print Zone, Morbi and Shri Pathik Sheth, Partner of M/s. Snehraj Notebook Industries, Ahmedabad revealed that as per the terms agreed upon, the goods were to be dispatched by M/s. Snehraj Notebook Industries to M/s. Print Zone at Morbi. The invoices issued by M/s. Snehraj Notebook Industries in this matter showed the consignee as M/s Print Zone, Morbi. However, M/s. Snehraj Notebook Industries arranged transport of the goods from their factory at Ahmedabad directly to Mundra with all the lorry receipts containing the name of the consigner as M/s. Print Zone, Morbi and name of the consignee as M/s. Rup Exports, Mundra. M/s. Snehraj Notebook Industries issued the Central Excise invoices <u>without declaring the Central Excise Tariff Entry Number and</u> keeping the vital columns for <u>'date and time of removal of goods' 'truck number' etc. blank</u>. This indicates that M/s. Snehraj Notebook Industries were aware that even though their invoices show that the destination of the goods was the factory of M/s. Print Zone at Morbi, the subject goods were cleared by them directly to Mundra for export. M/s. Snehraj Notebook Industries is found to have argued that there is no need to mention the mode of transport and vehicle number in the Central Excise invoice since the goods were already in the ownership of M/s. Print Zone at their factory gate. Shri Pathik Sheth, during the course of his statements dated 07.08.2020 submitted the original copies of all the lorry receipts issued in this matter by M/s. Niyati Logistics under which the goods were transported from the premises of M/s. Snehraj Notebook Industries, Ahmedabad to Mundra Port. This clearly indicates that the goods were transported at their supervision and cost. If the goods were transported at the cost of M/s. Print Zone, as claimed by M/s. Snehraj Notebook Industries, the transport documents would have been with M/s. Print Zone and not with M/s. Snehraj Notebook Industries. It is an admitted fact that the subject goods cleared from M/s. Snehraj Notebook Industries, Ahmedabad under these Lorry Receipts were exported under the aforesaid Shipping Bills filed by M/s. Rup Exports by mis-declaring the EPCG Authorisation No.2430001786 issued in favour of M/s. Print Zone. Thus, by issuing incorrect invoices and arranging transport of the goods, M/s. Snehraj Notebook Industries, Ahmedabad have abetted and assisted M/s. Print Zone in fraudulently exporting the goods, which rendered the exported goods liable for confiscation under Section 113 (i) of the Customs Act, 1962."*

5. Heard both the sides, pursued the appeal paper and submissions made by both the sides.

6. We find that the appellant is only a small time printer working under SSI. He has been given orders by M/s. Print Zone to print "Exercise Note Books" and was directed to supply the same to M/s. Rup Exports for delivery at their place. As a small time vendor, he is not expected to know as to under which scheme the export was undertaken by M/s. Print Zone/Rup Exports. His genuinity gets clarified by the fact that they have cleared the goods on payment of Excise Duty and they are also showing the details of such clearance in their monthly ER-1 Returns. Therefore, we do not find that the Department has made out specific case of abetment from their side in the alleged contravention indulged by M/s. Print Zone. Therefore, we set aside the impugned order to the extent of penalty imposed on the appellant and allow the appeal.

7. The appellant will be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

(R.MURALIDHAR)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi