

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

REGIONAL BENCH-COURT NO. 1

Excise Appeal No. 11209 of 2014- DB

(Arising out of OIO-AHM-EXCUS-002-COMMR-038-13-14 dated 31/10/2013 passed by the Commissioner of Central Excise-AHMEDABAD-II)

Richardson And Cruddas 1972 Ltd

Byculla Iron Works, Sir J J Road,
Post Box No. 4503,
Mumbai, Maharashtra

.....Appellant

VERSUS

COMMISSIONER OF C.E.-Ahmedabad-II

Custom House... First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat- 380009

.....Respondent

APPEARANCE:

Shri Anand Nainawati, Advocate for the Appellant

Shri R K Agarwal, Superintendent (AR) for the Respondent

CORAM:

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

HON'BLE Ms. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 10502/2025

DATE OF HEARING: 20.06.2025

DATE OF DECISION: 20.06.2025

SOMESH ARORA

1. In the instant case, the learned Advocate states that matter on merits was decided in favour of the revenue by decision of this Bench only as reported vide Final Order No. A/2551/WZB/AHD/2011 dated 21.12.2011 and same is accepted by them. Therefore, their clients who are a public sector undertaking are not agitating the matter further on merits, but they are aggrieved by the extended period having been invoked as period involved in this case was from 21.10.1986 to 28.11.1988 and for which the show cause notice was issued on 11.12.1989. Whole of the demand was barred by the limitation as at the relevant time, the normal period for issuing the show cause notice without invoking extended period clause under Section 11A was six months only. In support of his contention, he relied upon various decisions which are as follows:-

- Mahindra & Mahindra Ltd Vs CC, reported in 2005 (190) ELT 301 (Tri-L.B)
- Baidyanath Ayurved Bhavan Ltd Vs CCE, reported in 2004 (165) ELT 494 (SC)
- Shree Baidyanath Ayurved Bhawan Pvt. Ltd Vs CCE reported in 2000 (126) ELT 879 (T)
- CCE Vs H.M. M. Limited reported in 1995 (76) ELT 497 (SC)
- Kaur & Singh Vs CCE reported in 1997 (94) ELT 289 (SC)
- Raj Bhahadur Narain Singh Sugar Mills Ltd Vs UOI reported in 1996 (88) ELT 24 (SC)
- Nizam Sugar Factory Vs CCE reported in 2006 (197) ELT 465 (S.C)
- ECE Industries Limited Vs CCE 2004 (164) ELT 236 (SC)

2. He particularly states that there was a Larger Bench Constituted in the matter on the same issue in 2005 (190) ELT 301- (Tri-L.B) in the matter of Mahindra & Mahindra Ltd. vs. CCE., Aurangabad, Chandigarh, Kanpur & Chennai at the behest of Supreme Court which had noted several contrary judgments. In this context, he refers to para 3 of the decision which traces as to why, the matter had to be referred to the Larger Bench. He points out that the extended period cannot be invoked as there was question of interpretation involved which was decided at the various levels and eventually by the Larger Bench. He also pointed out that they are public sector undertaking and cannot normally be stated to be having "an intend to evade" duty.

3. Learned Authorised Representative on the other hand traces the history of litigation in this matter and more particularly, states that despite the administrative authority directing the appellants to take central excise license, there was complete defiance on their part and they never took the license and this deliberate act of not complying with the directions of the administrative authority itself constitutes "an intend to evade".

4. In rejoinder, the learned Advocate points that this proposition of direction to take license was addressed by the Apex Court itself in the following decisions:-

- PADMINI PRODUCTS vs. COLLECTOR OF C. EX. reported in 1989 (43) E.L.T. 195 (S.C.).
- BAIDYANATH AYURVED BHAVAN LTD. vs. COLLECTOR OF CENTRAL EXCISE, ALLAHABAD reported in 2004 (165) E.L.T. 494 (S.C.)

5. He has stated that despite license not having been taken when the issue of legal interpretation was involved, it was held in both the matters that negligence in not taking license, in the face of scope for interpretation, having been involved, is enough reason not to invoke extended period. He also argued that the very fact that the Larger Bench was Constituted and they were conflicting decisions even of the Supreme Court, clearly indicates that there was all along litigation and the matter was purely of legal interpretation. Therefore, their stand of litigating in the facts and circumstances of the case despite being asked to take license was justified.

6. We have gone through their adversarial arguments. We find that the position stated by the learned Advocate is correct and stands legally scrutinised right up to the level of Apex Court in the decisions of PADMINI PRODUCTS (cited supra) as well as BAIDYANATH AYURVED BHAVAN LTD. (cited supra), both of these decisions, were addressing the issue of directions of taking Central Excise License by executive authorities and still decided the matter in favour of the party as far as "intend to evade" was concerned, specially when there was scope for sufficient legal interpretation in the legal issue involved. We find from the history of the litigation on the issue that there were shades of legal opinions and it could not be said categorically that the appellants had no reason to doubt the legal interpretation as was adopted by the department even if, on merits the matter stands decided in favour of the Revenue as on date, we still find that in the facts of the matter the extended

period could not be invoked. In view of the above, the matter is clearly in favour of Revenue on merits, but on limitation, we hold that the extended period cannot be invoked. Since, it is not disputed that whole of demand is effected by limitation, therefore appeal is allowed on limitation with consequential relief, if any as per law.

7. Appeal allowed.

(Dictated and Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Bharvi