CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 1

EXCISE APPEAL NO. 10641 OF 2023

(Arising out of Order in Original VAD-EXCUS-002-COM-03-23-24 dated 09/06/2023 passed by the Commissioner of CGST & CE- Vadodara-II)

GAIL INDIA LTD ...... **Appellant**
Gandhar P O Rozatankaria,
Tal.- Amod, Bharuch, Gujarat- 392140

Vs.

Commissioner of Central Excise and Service Tax – CGST & Central Excise Vadodara II ......**Respondent**
GST Bhavan, Arkee Garab Ground,
Nr. Telephone Exchange,
Subhanpura, Vadodara, Gujarat- 390023

Appearance:
Shri Anand Nainawati, Advocate for the Appellant
Shri Mihri G Rayka, Additional Commissioner (AR) for the Respondent

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

FINAL ORDER NO. 10557/2025

Date of Hearing: 09/07/2025
Date of Decision: 09/07/2025

SOMESH ARORA

The issue involved in this case is the classification of what is known as Pentene mixture. As per the appellant, the same falls under TH 27111900, but as per the department, the same was classifiable under 27101113. It was the contention of the appellant’s Advocate that the matter is no more res-integra and for the period prior to the impugned period which is from 2001 to December,2006 and also the later period i.e. for October,2007 to July, 2009, the issue already stands covered in their favour by the decision of this bench in their own matter i.e. GAIL (India) Ltd vs. Commissioner of Central Excise and Service Tax Vadodara-II as reported in 2019 (24) GSTL 636 (Tri.-Ahm.).

2. The learned AR needed time to verify as to whether the same has been accepted by the department or not? It has transpired from the records produced by the appellant that the matter has travelled to the Apex Court

which dismissed initially the appeal on the ground of 'low tax effect' which was filed by the department in Civil appeal No. 7844-7848/2019. Thereafter, in the clarificatory order on Miscellaneous application No. 1481-1485/2021(In the same appeal), the decision of this Tribunal was upheld. The relevant para of the said decision is reproduced below:-

> *"Having considered the issues involved in the matter, in our view, the judgment under appeals does not call for any interference affirming the view taken by the Tribunal. The instant appeals are, therefore, dismissed."*

3. In view of the above situation, Learned AR has now no objection as the order of the Tribunal for that matter has been upheld by Apex Court on merits by dismissing the departmental appeal.

4. We have considered relevant position as brought on record by either side. We find that the issue is no more res-integra as the decision of this Tribunal (cited supra) has already been upheld by the Hon'ble Supreme Court. In view of the same, this appeal filed by M/s GAIL India Ltd is liable to be accepted. Same is allowed.

5. Appeal is allowed with consequential relief.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha