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

REGIONAL BENCH- COURT NO. 02

**Excise Appeal No. 10368 of 2019**
(Arising out of OIA-CCESA-SRT-APPEALS-PS-685-2018-19 dated 19/12/2018 passed by Commissioner ( Appeals ) Central Excise, Customs and Service Tax-SURAT-I)

**Grauer And Weil India Ltd** **.....Appellant**
Plot No 10, Survey No 215/1, Dadra Industrial Estate,
Dadra, Dadra And Nagar Haveli

*VERSUS*

**CGST & Central Excise-Daman** **.....Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road, Vapi
Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

**APPEARANCE:**
Shri. Dhruv Shah, Manager of the Company for the Appellant
Shri. Rajesh R Kurup, Superintendent (AR) for the Respondent

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

**Final Order No. 10665 /2025**

DATE OF HEARING:08.08.2025
DATE OF DECISION:08.08.2025

**SOMESH ARORA**

1. The appellant M/s Grauer & Weil (India) Ltd. are engaged in the manufacture of Electroplating/Metal Finishing Chemicals falling under chapter heading 38249021 of the Central Excise Tariff Act, 1985. The appellant was procuring goods indigenously as well as imported goods and availing Cenvat credit of Excise duty, CVD, SAD and the Cess as per the relevant provisions of the Cenvat Credit Rules, 2004. The appellant has cleared the inputs as such to their other units wherein they had reversed the entire Cenvat credit availed on such inputs as per the provisions of Rule 3(5) of the Cenvat Credit Rules, 2004 for which the appellant has issued central

excise invoice in terms of Rule 9 of Cenvat Credit Rules, 2004, wherein they have charged the said CVD and Cess as "Excise duty 100%" and SAD as "AED 100%". The audit report as well as show cause notice admits that the amount charged by the appellant in the invoice is the CVD and SAD portion which the appellant has reversed in terms of Rule 3(5) of the Cenvat Credit Rules, 2004.

1.2 The show cause notice was issued to recover the said SAD portion on the ground that the reversal of credit means taking cost to oneself and adjusting by debiting own account and not passing further and thereby appellant should have reversed the credit without passing/recovering on invoice. Furthermore, SAD is not an excise duty as same has not been prescribed in the statue i.e. section 3 of the Central Excise Act and further amount reversed in terms of Rule 3(5) cannot be considered as duty and thus charging of said SAD portion will be considered as excess duty recovered from the buyer and same needs to be recovered under Section 11D of Central Excise Act, 1944. Therefore the present appeal.

2. This is the sequel period demand and the issue involved in the present appeal is identical to the one already decided in favour of the appellant vide Final Order No 11846/ 2024 dated 29.08.2024.

3. Learned AR has no objection to following this order as this appeal is involving same issue for the sequel period. The issue is therefore no more res interga.

4. We find that in Para 4.3 of the final order No. 11846/2024 dated 29.08.2024, this Tribunal has allowed the appeal of the party. The said Para is reproduced below:-

> *4.3 In view of the above judgments, it is clear that once the amount of duty has been paid to the Government and the same is charged in the invoice, provisions of Section 11 D will not apply. The similar*

*facts are available in the present case also in as much as the appellant have paid the amount shown in the invoice by reversing the credit in their Cenvat account. Therefore, in this fact the demand under Section 11 D is not sustainable.*

4.3 Following the above stated order, we allow the appeal of the party with consequential relief, if any.

5. The appeal is allowed.

(Dictated & Pronounced in the open court)

**(SOMESH ARORA)**
**MEMBER ( JUDICIAL )**

**(SATENDRA VIKRAM SINGH)**
**MEMBER ( TECHNICAL )**

Prachi