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

REGIONAL BENCH- COURT NO. 02

Excise Appeal No. 335 of 2012

[Arising Out Of OIA-20/2012-BVR-/COMMR-A-/RBT/RAJ Dated- 13/03/2012 passed by Commissioner (Appeals), Central Excise-BHAVNAGAR)

Rawmin Mining And Industries Pvt Ltd **.....Appellant**
East Kadia Plots,, Porbandar
Gujarat

VERSUS

C.C.E. & S.T.-Bhavnagar **.....Respondent**
Plot No.6776/B-1...Siddhi Sadan building,
Narayan Upadhyay Marg,
Beside Gandhi Clinic, Near Parimial Chowk,
Bhavnagar, Gujarat-364001

APPEARANCE:
Shri. Sudhanshu Bissa, Advocate for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

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

Final Order No. 10725/2025

DATE OF HEARING:12.09.2025
DATE OF DECISION:12.09.2025

SOMESH ARORA

1. Learned Advocate points out that the party's own case as delivered in Final Order No. 10411-10413/2023 dated 07.03.2023 was decided with the same factual background. This Court (different Constitution) had held that when the goods were meant for export and subsequently the same got actually exported, there cannot be any malafied intention construed withintent to evade the payment of duty. It was also held that the goods which were confiscated in that case were finally exported, therefore, as such excise duty was not chargeable and therefore the very fact that the same goods were eventually exported needs to be considered by the adjudicating authority so that party can accordingly be afforded benefit of duty as well as, other benefits if found eligible. It was his pleading that the matter was

remanded to the adjudicating authority in that case for passing a fresh order within the stipulated period. Similarly, in this case also the goods have been eventually exported.

2. Learned AR has no objection if the matter is freshly scrutinized by the adjudicating authority.

3. Considering the facts which are of supervening nature, including verification of exports, this court is inclined to remit this matter also. This Court is reproducing observations in the earlier matter (cited supra) of the same party as are contained in Para 4:-

> *Para "4. I have carefully considered the submission made by both side and perused the records. I find that there is no dispute in the facts of the case that M/s. Rawmin Mining and Industries Pvt. Ltd have cleared their excisable goods outside the factory without payment of duty and without preparing any documents. Therefore, there is clear violation of the Central Excise Rules and procedure. The appellants' main defence is that the goods were meant for export and subsequently the same have been exported, therefore, no mala fide intention with intent to evade payment of duty. Even if this fact is considered but the violation of the provision is clearly exists that though excisable goods from the factory cannot be cleared without payment of duty and without issuing the invoices , ARE-1 if it is meant for export. Therefore, the goods were rightly confiscated. However, the appellants' claim is that the goods which were confiscated have been finally exported, on such goods excise duty is not chargeable but in this case the subsequent event of export of goods has not been considered. Accordingly in my considered vie w the matters needs to be re-adjudicated after ascertaining facts about the disposal of the goods whether the same were cleared in DTA or for export."*

3.1 With above directions, the matter is remanded back to the adjudicating authority.

4. Appeal is allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi