CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 2

EXCISE APPEAL NO. 11155 OF 2019

[Arising out of OIO-SUR-EXCUS-000-COM-039-18-19 dated 25/03/2019 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I]

Appellant

Commissioner of C.E. & S.T.-Surat-I
NEW BUILDING...OPP. GANDHI BAUG,
CHOWK BAZAR,
SURAT,GUJARAT-395001

Vs.

Arti Silk Mills Private Limited **Respondent**
BLOCK NO. 10, PLOT NO. 289 KARANJ MANDVI ROAD,
KARANJ, SURAT, GUJARAT

<u>Appearance:</u>
Present for the Appellant: Shri Rajesh Nathan, Assistant Commissioner (AR)
Present for the Respondent: Shri Mukund Chauhan, Advocate

CORAM:
HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

FINAL ORDER NO. <u>10854/2025</u>

Date of Hearing: 16.10.2025
Date of Decision: 17.10.2025

<u>SATENDRA VIKRAM SINGH</u>

1. This is the department’s appeal filed against OIO No.SUR-EXCUS-000-COM-039-18-19 dated 25.03.2019 wherein, it has been prayed that Hon’ble Tribunal may set aside the impugned order to extent of imposition of penalty equal to 50% fo the duty evaded and impose a penalty upon the respondent equal to the duty evaded amount.

1.1 The respondent company were purchasing Polyester Oriented Yarn, Yarn Oil and packaging material on which Cenvat Credit was being availed. They were manufacturing texturized yarn and clearing the same for home consumption, without payment of duty under notification No.30/2004-CE dated 09.07.2004. Some quantity of the finished goods was also exported under rebate. The audit observed that the respondent company was reversing Cenvat Credit at the rate of 6% of the value of exempted goods whereas the condition of the notification was that no Cenvat Credit should be availed on such goods. Accordingly, it was alleged that the respondent company should pay Central Excise duty of Rs.21,68,82,802/- on clearance of exempted goods during period from April, 2016 to June 2017. The department issued a show cause notice dated 14.09.2018 proposing recovery of above duty amount under section 11A along with interest under section 11AA and penalty under Section 11AC (1)(c) of the Central Excise Act,1944 read with Section 174 of the CGST Act, 2017.

1.2 The Commissioner in his Adjudication order confirmed the duty upon the respondent company but imposed penalty equal to 50% of the duty amount on the ground that the case has been made on the basis of clearances recorded in their books of accounts. Hence, the present appeal by the department.

2. It has been stated by the learned Authorized Representative that theapplication filed by M/s Arti Silk Mills Private Limited under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has been considered and final discharge certificate in the form of SVLDRS-4 has been issued in this case. The department has filed appeal in this case for enhancing penalty equal to the duty evaded as against penalty of 50% of the duty evaded imposed by the Adjudicating authority. We find that as per Section 129 of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019:-

> *"Every discharge certificate issued under Section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and the time period stated therein and-*
>
> > *(a) the declarant shall not be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration."*

3. In view of this, the appeal filed by department in this case for enhancing penalty become infructuous as whatever penalty was imposed, the same would have been settled under this scheme without payment of any extra amount. We therefore, find that the appeal filed by the department does not survive and accordingly, we dismiss the same as infructuous.

4. The appeal is dismissed.

(*Pronounced in the open court on 17.10.2025*)

(DR. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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