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

REGIONAL BENCH- COURT NO.1

Excise Cross Appeal No. 10590 of 2018
in
Excise Appeal No. 11076 of 2018
(Arising out of Order-in-Original No. RAJ-EXCUS-000-APP-238 to 244-2017-18 dated 10.02.2018 passed by ADG, Taxpayer Services)

C.C.E. & S.T. Rajkot **...Appellant**
Central Excise Building, Bhavan Race Course
Ring Road, Income Tax Office,
Rajkot, Gujarat-360001

VERSUS

Brassomelt Extrusion Private Limited **...Respondent**
Plot No. 3954, Gidc, Phase-iii, Dared, Jamnagar
Gujarat-361004

APPEARANCE:
Shri R.R. Kurup, Authorised Representative appeared for the appellant
Shri Rahul Gajera, (Amicus Curiae) Advocate appeared for the Respondent

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

FINAL ORDER NO. 10874 /2025

DATE OF HEARING: 21.07.2025
DATE OF DECISION: 04.11.2025

SATENDRA VIKRAM SINGH:

This appeal has been filed by the department against order No. RAJ-EXCUS-000-APP-238 to 244-2017-18 in the case of M/s Brassomelt Extrusion Private Limited.

1.1 A case was booked against the respondent for clearance of excisable goods without payment of Central Excise duty in a clandestine manner during the period from 31.07.2014 to 24.11.2014. The basis of making the case was recovery of 260 pages of Yellow Coloured production Planning Slips from the factory premises of the respondent and 31 lorry receipts containing details regarding dispatch made during the above said period showing clearance of goods without issue of central excise invoice and without payment of central excise duty. After conducting investigation in the matter, the department issued a show cause notice dated 01.04.2016 demanding central excise duty of Rs.1,02,34,080/- under Section 11A(4) of the Central Excise, 1944 along with interest under Section 11AA and penalty under Section 11AC of the said Act read with Rule 25 of the Central Excise Rules, 2002. A proposal was also made to confiscate the said finished goods and impose penalty on Shri Kapil V Patel and Shri Chetan Sanghani, Directors of the Respondent company under Rule 26(1) of the Central Excise Rules 2002. There were penalty proposals against other co-noticee namely, Shri Rajkumar Kantilal Sorathia, Shri Kamlesh C. Mehta, Shri Pravinbhai Laxmanbhai Pathar and Shri Ashish Rabadiya for imposition of penalty under Rule 26(1) of the Central Excise Rules 2002.

1.2 The said matter was decided by the adjudicating authority wherein, he confirmed the duty upon the respondent company along with interest and equal amount of penalty under Section 11AC of the Central Excise Act, 1944. He also imposed penalty of Rs. 30 Lakh each on both the Directors namely, Shri Kapil V. Patel and Shri Chetan Sanghani. He also imposed penalty of Rs. 1 Lakh on Shri Rajkumar Kantilal Sorathia, penalty of Rs. 3 Lakh on Shri Kamlesh Chunibhai Mehta, penalty of Rs. 50,000/- on Shri Pravinbhai Laxmanbhai Pathar and a penalty of Rs. 20 Lakh on Shri Ashish Rabadia, under Rule 26(1) of the Central Excise Rules, 2002.

1.3 Aggrieved with this order, the respondent company as well as both the Directors and four other co-noticees filed appeal before the Commissioner (Appeals) who vide impugned order dated 10.02.2018 dropped the demand of Central Excise duty to the extent of Rs. 88,34,809/- and confirmed the demand of Rs. 13,99,271/- only along with interest upon the respondent company. He also imposed equal amount of penalty on the company under Section 11AC of the Central Excise Act, 1944. He further reduced the penalty on both the Directors from Rs.30 Lakhs to Rs. 5 Lakhs each and set aside the penalty on four other co-noticees. Aggrieved with this order, the department filed appeal before this Tribunal.

2. The matter was heard in detail. Learned AR emphasized that the evidences available have been ignored by the appellate authority and demand has been wrongly dropped. He prayed that these evidences may be considered by the Hon'ble Tribunal and the balance amount of duty be confirmed against the respondent company along with equal amount of penalty.

3. Shri Rahul Gajera, Learned Advocate was appointed as Amicus Curiae in this case who defended the respondent company.

4. We have heard the rival submissions and also seen the records. From the records, it transpires that the respondent company had applied under Sabka Vishwas Legacy Dispute Resolution Scheme, 2019 for settlement of the matter. In their letter dated 10.10.2024 addressed to CESTAT, Ahmedabad, the respondent company had intimated that they had filed SVLDR-1 and SVLDR-2 before Central Excise authorities for settlement of this case. They also enclosed copy of the bank account showing payment of the balance amount as per this scheme. The matter was therefore enquired from the jurisdictional CGST Commissionerate, Rajkot who vide letter dated 16.10.2025 intimated that the instant case of the respondent company has been settled under SVLDR Scheme and discharge certificate in the form of SVLDR-4 has already been issued. From the perusal of the SVLDR-4 Certificate, we are of the view that the amount due has already been discharged by the respondent company.

5. 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 declation."

In view of this, we find that as the case has already been settled finally by the department, the appeal filed by the Revenue for confirming the balance amount of excise duty and penalty does not survive. We find that the department's appeal has become infructuous and therefore, we dismiss the same.

6. The appeal is dismissed. Cross appeal is also disposed of.

(Order pronounced in the open court on 04.11.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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