

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

REGIONAL BENCH- COURT NO.1

Excise Appeal No. 12650 of 2018

(E/CROSS/10937/2018)

(Arising out of OIA-VAD-EXCUS-001-APP-108-2018-19 Dated 27/06/2018 passed by
Commissioner (Appeals), Central Excise, Customs and Service Tax-VADODARA-I)

C.C.E. & S.T.-Vadodara-I

1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

.....Appellant

VERSUS

Mitesh Food Products Pvt Ltd

D-14, Road No. 2, Sardar Estate, Ajwa Road,
VADODARA, GUJARAT

.....Respondent

APPEARANCE:

Shri. Rajesh R Kurup, Superintendent (AR) for the Appellant
Shri. Shweta Garge, Amicus Curiae for the Respondent

CORAM:

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

HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 11064/2025

DATE OF HEARING: 14.11.2025

DATE OF DECISION :14.11.2025

SOMESH ARORA

In this case, department is aggrieved by the order of Commissioner (Appeals) wherein he has dropped the demand for the larger period and also extended cum duty benefit and favoured a particular method of valuation for the unit which was manufacturing cakes and pastry without even taking registration. The unit had made a voluntarily deposit and took registration later. At the relevant time, the fact of manufacturing as well as taking registration was not done.

2. The Learned AR seeks to rely upon the decision in the case of Dharampal Satyapal Vs. CCE, New Delhi as reported in 2005 (183) ELT 241 (S.C). He pleads that there is suppression and clandestine manufacturing without payment of duty and without taking Central Excise registration. In this case, plea of bonafide belief cannot be accepted and extended period is invokable.

3. Learned Amicus Curiae appointed for the respondent registers a protest and states that there is no evidence to substantiate invocation of

extended period. For this purpose, she seeks to rely on various decisions as forming part of Para G of the synopsis:-

- Bharat Hotels Ltd. v Commissioner of C. Ex. reported in 2018 (12) GSTL 368 (Del) (Para 27);
- Jai Balaji Industries Ltd. (Unit IV) v Commr. of C. Ex., Bolpur reported in 2022 (58) GSTL 361 (Tri. Kolkata) (Para 9);
- Reetika Cable v Commissioner of CGST, Chandigarh reported in 2021 (53) GSTL 261 (Tri. Chan.);
- Cosmic Dye Chemical v Collector of Central Excise, Bombay reported in (1995) 6 SCC 117;
- Anand Nishikawa Co. Ltd. v Commissioner of Central Excise, Meerut reported in (2005) 7 SCC 749.

4 In view of the foregoing and after considering rival submission, we are of the view that the department has a case for invoking the extended period and reworking of demand accordingly. The party as has been pleaded by the Learned Amicus Curiae shall be entitled to cum duty benefit but the method of valuation also needs to be determined in relation to the remaining portion of the demand. Matter is therefore remanded only to the extent of re-determination of valuation in accordance with applicable Rules and reworking of demand for extended period by affording cum duty benefit. The contribution of Learned Amicus Curiae in the matter is appreciated as she afforded time and energy and put forth argument despite the matter being posted three or four times.

5. Appeal partly allowed in above term.

(Dictated and pronounced in the open court)

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

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