

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

REGIONAL BENCH-COURT NO. 2

Excise Appeal No. 11165 of 2019 – DB

(Arising out of Order in Original SUR-EXCUS-000-COM-042-18-19 dated 26.03.2019 passed by Principal Commissioner, GST & Central Excise, Surat)

COMMISSIONER OF CGST & CENTRAL EXCISE – SuratAppellant

Central Excise Building,
Opp. Gandhi Baug, Chowk Bazar,
Surat-395001

VERSUS

Jb Ecotex Llp

Block No,195, NH 195,
Village-Dhamdod, Taluka-Mangrol,
Surat-394125

.....Respondent

APPEARANCE:

Shri Rajesh K Agarwal, Superintendent (AR) appeared for the appellant
None appeared for the respondent

CORAM:

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

Final Order No. 11391/2025

DATE OF HEARING: 26.11.2025

DATE OF DECISION:26.11.2025

SATENDRA VIKRAM SINGH

1. The present appeal bearing No. E/11165/2019 has been filed by the Department for enhancing the penalty equal to duty liability i.e Rs.30,78,12,547/- instead of 50% penalty imposed on the respondent. Learned Counsel through e-mail dated 25.11.2025 submits that in their appeal against Order in Original dated 26.03.2019, this Tribunal vide Final Order No. A/12155-12156/2019 dated 07.11.2019 had already remanded the matter to the Adjudicating Authority for Denovo adjudication. The relevant para 5 of the said order is reproduced below:-

"5. Having perused the impugned order we find that the subject exemption is available to finished goods if the same are manufactured by plastic waste. We find that the Appellant has brought yarn waste and converted the same into popcorn. We find that what has been tested by the Man Made Textile Research Association is Polyester Popcorn and even the CIPET report is about PET waste. The IIT report is also about Popcorn considering it to be plastic waste. However the facts remains that Yarn waste was brought by the Appellant and converted into Popcorn. The Appellant has also pleaded that the small use of popcorn in manufacture of finished goods would not debar them

from availing exemption. In above circumstances we consider it appropriate to remand the case back to the adjudicating authority to decide the case afresh by taking into consideration the contentions of the Appellant afresh viz. the reports of various institutes relied upon by the Appellant and also to consider the case that the small use of popcorn from yarn waste would not debar the Appellant from exemption. The percentage of small quantity of yarn waste as claimed by the appellant was not ascertained, which is important to draw a conclusion for eligibility of exemption.”

2. In view of the above, when the basic issue of duty liability and eligibility of exemption notification is going to be redetermined by the Adjudication Authority in remand proceedings, the issue of penalty on the appellant whether equal to duty liability or 50% shall be taken care of.

3. In view of the above, the appeal filed by the Department has become infructuous and therefore, the same is dismissed.

(Dictated and pronounced in the open court)

**(DR. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)**

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