

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

REGIONAL BENCH- COURT NO. 02

Excise Appeal No. 10537 of 2025

(Arising out of Order in Appeal No. VAD-EXCUS-002-APP-469-2024-25 dated 07/01/2025 passed by the Commissioner (Appeals), GST & Central Excise - Vadodara)

SELAN EXPLORATION TECHNOLOGY LIMITED

802, Imperia Mindspace, Golf course Extension
Road, Sector 62, Gurgaon- 122001, Haryana

.....Appellant

VERSUS

**COMMISSIONER OF CGST & Central Excise
- Vadodara I**

Central Excise Building, Race Course
Circle, Vadodara, Gujarat-390007

.....Respondent

WITH

Excise Appeal No. 10538 of 2025

(Arising out of Order in Appeal No. VAD-EXCUS-002-APP-470-2024-25 dated 07/01/2025 passed by the Commissioner (Appeals), GST & Central Excise - Vadodara)

SELAN EXPLORATION TECHNOLOGY LIMITED

802, Imperia Mindspace, Golf course Extension
Road, Sector 62, Gurgaon- 122001, Haryana

.....Appellant

VERSUS

**COMMISSIONER OF CGST & CENTRAL EXCISE
- Vadodara I**

Central Excise Building, Race Course
Circle, Vadodara, Gujarat-390007

.....Respondent

AND

Excise Appeal No. 10539 of 2025

(Arising out of Order in Appeal No. VAD-EXCUS-002-APP-471-2024-25 dated 07/01/2025 passed by the Commissioner (Appeals), GST & Central Excise - Vadodara)

SELAN EXPLORATION TECHNOLOGY LIMITED

802, Imperia Mindspace, Golf course Extension
Road, Sector 62, Gurgaon- 122001, Haryana

.....Appellant

VERSUS

**COMMISSIONER OF CGST & CENTRAL EXCISE
- Vadodara I**

Central Excise Building, Race Course
Circle, Vadodara, Gujarat-390007

.....Respondent

APPEARANCE:

Shri Sandip Gupta, & Shri. Karan Shah, Chartered Accountant for the Appellant
Shri A R Kanani, Superintendent (AR) for the Respondent

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

Final Order No. 11424-11426/2025

DATE OF HEARING:05.12.2025
DATE OF DECISION:05.12.2025

SOMESH ARORA

Learned Counsel for the party points out that this matter involves refund of the Oil Industry Development Cess which was paid by them on the cum duty paid price and therefore they were entitled to refund of the same, but still it has been rejected by the Commissioner (Appeals) on the basis of incorrect finding that they had separately charged over and above the contract price entered into with Indian Oil Limited. The findings to this effect are contained in Para 5.4 of impugned order as indicated below and are relevant for the purpose of this Court.

Para "5.4 On going through the records of the case and submission of the appellant, it is seen that the appellant had entered into a Production Sharing Contract with the Government of India (and its nominee IOCL), and as per Article 15 and Article 18 of the Production Sharing Contract, the liability to pay OID cess would be of the Appellant (referred to as the 'Contractor in the Production Sharing Contract) and the prices of the crude oil to be sold by the Appellant to the Government of India or its nominee would be determined on the basis of international market. On examination of Production Sharing Contract between, the Appellant and the Government of India (and its nominee IOCL), under Article 13 para 13.1, it is mentioned that the contractor shall be entitled to recover contract costs after deduction of applicable levies. Thus, the Appellant had deducted the cess from the contract price and deposited (OID cess separately received from the Government of India (or its nominee))."

2. The appellant's contention is that they had duly provided a CA certificate and the same is clear from Para 9.3 & 9.4 of OIO reproduced below:

"9.3 The claimant has also submitted CA certificate dated 26.07.2023 Issued by V. Sankar Alyar & Co. to the effect that out of the total Cess of Rs. 77358986/- paid for the period April 20 to March 21, the claimant has neither separately collected Cess from recipient nor it was embedded in determining the prices of sold Crude Oil during the period. The examination of the said certificate reveals that the said certificate does not certify the basis of the transaction value nor certifies that the claimant had paid the excess OID cess on the transaction value as envisaged under Section 4 of the Central Excise Act.

9.4 Moreover, I find that the CA Certificate nowhere states the Cess is borne by the claimant and the incidence of Cess has not been passed on to any other person. As such I find that the CA certificate is irrelevant."

3. Be it so, the AR was specifically asked, as to whether the department has any proof that Oil Industry Development Cess was separately received from the Government of India undertakings as has been pointed out in Para 5.4 in the findings of the Commissioner (Appeals), he could not produce the same.

4. It appears, that there is a factual error which has crept in the order of the Commissioner (Appeals), in so far as he has given a finding that Oil Industry Development Cess separately was received from the Government of India which is contrary to the CA Certificate produced by the appellant party.

5. Matter is therefore remanded to Commissioner (Appeals) to consider the CA certificate produced by the party. Also, the party is given freedom to indicate from the recipients i.e. Government of India or its undertakings, as to whether Oil Industry Development Cess was separately received or not over and above the contract amount. While doing so, the Learned Commissioner (Appeals) should also go through Clause 12 of the agreement between IOCL and the appellant party, which indicates that all taxes, duties, levies or other Government charges levied under the authority of law related to sale of crude oil, shall be borne by the appellant. The provision of Clause 12 and 13 of the contract be considered with evidence, by asking the party to produce certificate from IOCL as to whether something was being charged over and above the contract price and whether the contract price included the Oil Industry Development Cess as has been contended by the party. The

CA certificate produced should also be given due weightage as it is of relevant period of dispute. With above terms, we are remanding the matter to Commissioner (Appeals)

6. Appeal allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi