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

REGIONAL BENCH- COURT NO. 01

Excise Appeal No. 10402 of 2023

[Arising out of OIA No.RAJ-EXCUS-000-APP-035-037-2023 dated 15.02.2023 passed by the Commissioner (Appeals), GST & Central Excise, Rajkot)

ROHIT MACHINE TOOLS **.....Appellant**
2/3 Lati Plot Corner, Lati Plot Main Road,
Morbi, Gujarat-363641.

VERSUS

Commissioner of Central Excise & Service Tax-Rajkot **.....Respondent**
Central Excise Bhavan, Race Course Ring Road
Income Tax Office, Rajkot, Gujarat-360001

WITH

Excise Appeal No. 10403 of 2023

[Arising out of OIA No.RAJ-EXCUS-000-APP-035-037-2023 dated 15.02.2023 passed by the Commissioner (Appeals), GST & Central Excise, Rajkot)

ROHITKUMAR MANSHUKHLAL PADHARIA **.....Appellant**
Partner Of Rohit Machine Tools
2/3 Lati Plot Corner Lati Plot
Main Road,, 673-363641, 24

VERSUS

Commissioner of Central Excise & Service Tax-Rajkot **.....Respondent**
Central Excise Bhavan, Race Course Ring Road
Income Tax Office, Rajkot, Gujarat-360001

AND

Excise Appeal No. 10404 of 2023

[Arising out of OIA No.RAJ-EXCUS-000-APP-035-037-2023 dated 15.02.2023 passed by the Commissioner (Appeals), GST & Central Excise, Rajkot)

HEMABEN ROHITKUMAR PADHARIA **.....Appellant**
Partner Of Rohit Machine Tools, 2/3 Lati Plot
Corner Lati Plot Main Road, 673-363641, 24

VERSUS

Commissioner of Central Excise & Service Tax-Rajkot **.....Respondent**
Central Excise Bhavan, Race Course Ring Road
Income Tax Office, Rajkot, Gujarat-360001

APPEARANCE:
Shri.Vijay N Thakkar, Consultant for the Appellant
Shri. P Ganesan, Superintendent (AR) for the Respondent

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

Final Order No. 10450-10452/2026

DATE OF HEARING:01.07.2026
DATE OF DECISION: 21.07.2026

SOMESH ARORA

This bunch of appeals are stated to be emanating from the same investigation and materially has the same facts as has been decided by the Division Bench in the matter of Famous Ceramic Industries vs. Commissioner of Central Excise & Service Tax-Rajkot in which 57 main appeals and 207 co-appellant were disposed of giving benefit of penalty and duty.

2. Both sides agree that the factual matrix is similar and therefore, the decision in the case of Famous Ceramic Industries, Morbi can be followed. The Paras which are relevant for the purpose of deciding this case being paras 8.3 & 8.4 are reproduced below:

> *"8.3 In Vineet Narain and Others vs. Union of India and Others, (1998) 1 SCC 226, the Hon'ble Apex Court refused to treat diary entries and loose sheets recovered from some Hawala Operators as substantive evidence without independent and proper corroboration. From the above chain of evidence collected by the department, it is clear that even the aspect of cash receipt by the manufacturers of Morbi etc. who are the present appellants is not free from doubt and cannot be taken to be established by the department. Apart from above, evidences required to sustain charge of clandestine removal involving various aspects such as receipt of unaccounted raw materials and its use for production of unaccounted finished goods including excess consumption of electricity and clandestine removals of such goods and stock discrepancies at the end of the manufacturer or buyers, receipt of cash by the manufacturer and payment link to the buyers through a series of middleman including Shroff, non-availability of excess cash during search at any end, transports document and transport related authorities have not even been attempted to be produced, same is therefore fatal to the case of the department.*
>
> *8.4 In view of the foregoing, we find substance in the defence made by the appellants in relation to charge levied against them of clandestine removal. We find that the same is far from the truth on the basis of various submissions, made before us by the appellants on various aspects in isolation and collectively. After due appreciation of the various materials on record, including case laws and on proper evaluation of evidence produced before us, we find that the charge of clandestine removal is far from proved against the appellants and other co-accused. The other aspects of*

> *valuation etc. pale into insignificance, on the basis of findings that the charge of clandestine removal itself is unsustainable, same is therefore not pronounced upon. We accordingly hold that the charge of clandestine removal not having been proved by the department, the demands are consequently not sustainable and so are the penalties etc. against the manufacturers and other accused of various nefarious activities. Penalties on them cannot be sustained. The impugned orders are accordingly set aside with relief."*

3. In view of the forgoing, the benefit is allowable on the basis of decision of Division Bench and same is allowed with consequential relief to all appellants.

(Pronounced in the open court on 21.07.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi