**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**ALLAHABAD**
E-Hearing
REGIONAL BENCH - COURT No. I

**Service Tax Appeal No.70107 of 2022**

(Arising out of Order-in-Appeal No.296-297/ST/ALLD/2021 dated 29.09.2021 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad)

**M/s M. P. Biscuits Pvt. Ltd.,** **.....Appellant**
(B-18, Industrial Area Road, Patanava,
Basant Nagar, Varanasi-221010)

*VERSUS*

**Commissioner of Central Excise &**
**CGST, Varanasi** **....Respondent**
(Range Chandauli, Division-Varanasi,
9, Maqbool Alam Road, Varanasi-221002)

**APPEARANCE:**

Shri Mayur Jain, Advocate & Ms. Rinki Arora, Advocate for the Appellant
Shri Santosh Kumar & Shri Tuleshwar Prasad, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)**

**FINAL ORDER NO.- 70280/2025**

DATE OF HEARING : 15.05.2025
DATE OF DECISION : 15.05.2025

Heard both the sides and perused the appeal records.

2. I find that Show Cause Notices[1] were issued alleging short payment of tax by the Appellant. From the impugned Order-in-Appeal, I find that the learned Commissioner (Appeals) has accepted the arguments of the Appellant that there has been short payment in some months and again there has been excess payment in some months which has been taken into consideration. The only grievance of the Appellant for coming to the Tribunal is that some of their challans have not been considered though payments were made by GAR-7 challans but inadvertently they failed to mention those challans while filing their ST-3 returns. They have made all the payments and the same can be verified and credit may be given and if credits of those challans are given, there would not be any case of short

[1] SCN

payment of service tax. In fact, even after taking some liability on account of interest, there would however be some excess payment. Small chart is being given to explain the submissions of the Appellant:-

**Details of service tax payment**

| Particulars | Amount (In INR) |
|---|---|
| Revised tax liability (**A**) | 2,12,374 |
| Interest (**B**) | 1,555 |
| Interest (**C**) | 10,416 |
| **Revised tax liability including interest D= (A+B+C)** | **2,24,345** |

**Reconciliation of Service Tax liability**

| GAR-Challan No. | Date | Amount |
|---|---|---|
| 01908 | 26-08-2016 | 23,641 |
| 01816 | 11-05-2017 | 2,18,344 |
| 00008 | 29-01-2019 | 410 |
| Total payment made (A) | | 2,42,395 |
| Total Liability (including interest)(B) | | 2,24,345 |
| **Excess payment C=(A-B)** | | **18,050** |

On facts as stated above and under the circumstances of the case, I do not find any ingredient of misstatement, suppression of facts etc., with an intent to evade payment of service tax and accordingly the penalty imposed under Section 78 is set aside. Further on verification of the challans, if it is found that there is no short payment, the learned Adjudicating Authority may reconsider the penalties imposed under Section 76 and 77(2). Accordingly, the appeal filed by the Appellant is partly allowed and the matter is remanded to the learned Adjudicating Authority for the limited purpose of verification of challans and allowing the credit due to Appellant assessee and reconsider the penalties imposed under Section 76 and 77. The appeal is disposed off in the above terms.

(Dictated and pronounced in open court)

**(P. K. CHOUDHARY)**
**MEMBER (JUDICIAL)**

*LKS*