

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT NO.I

Excise Appeal No.70721 of 2019

(Arising out of Order-in-Appeal No.152/CE/ALLD/2019 dated 28.05.2019 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad)

Shri Naresh Chandra Dwivedi,Appellant

(Opposite Sun India Pharmacy,
Prem Nagar, Orai, Distt.-Jalaun, U.P.)

VERSUS

**Commissioner of Central Excise &
CGST, KanpurRespondent**

(117/7, Sarvodaya Nagar, Kanpur-208005)

WITH

Excise Appeal No.70621 of 2025

(Arising out of Order-in-Appeal No.246/CE/ALLD/2024 dated 26.04.2024 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad)

Shri Naresh Chandra Dwivedi,Appellant

(Opposite Sun India Pharmacy,
Prem Nagar, Orai, Distt.-Jalaun, U.P.)

VERSUS

**Commissioner of Central Excise &
CGST, KanpurRespondent**

(117/7, Sarvodaya Nagar, Kanpur-208005)

APPEARANCE:

Shri Nishant Mishra, Advocate for the Appellant
Smt. Chitra Srivastava, Authorized Representative for the Respondent

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

FINAL ORDER NOs.- 70855-70856/2025

DATE OF HEARING : 19.08.2025
DATE OF PRONOUNCEMENT : 09.12.2025

Excise Appeal No.70721/2019 arises from Show Cause Notice¹ dated 01.09.2017, which was adjudicated vide Order-in-Original No.28/CX/ADJ/2018 dated 31.12.2018, against which appeal filed by the Appellant has been rejected vide impugned Order-in-Appeal No.152/CE/ALLD/2019 dated 28.05.2019.

2. Excise Appeal No.70621/2025 arises from SCN dated 31.05.2021, which was adjudicated vide Order-in-Original No.104/ST/ADT-CIR-II/KNP/2023 dated 18.10.2023, against which the appeal filed by the Appellant has been rejected vide impugned Order-in-Appeal No.246/CE/ALLD/2024 dated 26.04.2024. Since both the appeals arise from search dated 08.03.2017, hence both the appeals are heard and decided together.

3. Brief facts of the case are that on 08.03.2017, the Officers of Director General of Central Excise Intelligence², Kanpur conducted search at a premises situated at 105, Baldau Chowk, Orai. During the course of search proceedings, one Shri Ram Kumar Parihar was found present at the said premises and Panchnama was drawn recording stock of finished goods of various brands namely 'Tazza 5000 supari', 'VIP Sugandhit Supari', 'Mawa Tazza' and '5000 tobacco' valued at Rs.2,03,225/- along with stock of raw material/packing material was found. The Panchnama also records that the officers took sample of finished goods namely 'Tazza 5000 supari', 'VIP Sugandhit Supari', 'Mawa Tazza' and '5000 tobacco'. It is the specific case of the Appellants that the Panchnama nowhere records any manufacturing activity or presence of any machine or equipment.

4. During the course of search proceedings, the officers recorded statement of Shri Ram Kumar Parihar to the effect that the said premises was used for manufacturing and sale of Gutkha under the names of non-existent units, the Appellant is the owner of the factory and goods found there, he was working as a supervisor in the premises on the directions of the Appellant

¹ SCN

² DGCEI

and materials such as cut supari, lime, kattha, tobacco, clove are received in the factory and mixed and packed by hands.

5. The team of officers then visited the residence of the Appellant, during which the Appellant was not available at the residence. Statement of Appellant's wife was recorded to the effect that the Appellant is engaged in manufacture and sale of Gutkha. The officers found currency of Rs.16,72,000/- at the residence of the Appellant and the same was seized on the reasonable belief that the same represents sale proceeds of Gutkha manufactured and cleared by the Appellant. The officers also seized some goods which were purchased by the Appellant for starting trading business and further resumed some loose papers. On the same day, the officers also conducted search at another premises situated adjacent to Mahil Palace Hotel, Patel Nagar, Orai and also at the premises situated at Machhar Chauraha, Orai, during which nothing incriminating was found and Panchnama was drawn in the presence of Sri Ramesh Soni.

6. During investigation, summons were issued to the Appellant, who appeared before the officers and stated that the Appellant is a priest by profession and procured small quantity of goods for starting trading business but before he could start the same, the goods were seized on 08.03.2017 from his residence. He further stated that during search proceedings on 08.03.2017, his wife was coerced to sign on blank papers and he has nothing to do with the premises situated at 105, Baldau Chowk, Orai and also the goods found from the said premises.

7. On being summoned, Shri Ram Kumar Parihar submitted letter dated 28.03.2017, to the effect that the premises situated at 105, Baldau Chowk, Orai was taken on rent by him from the owners and he was using the said premises. He further stated that his earlier statement regarding the Appellant was not correct. Shri Ramesh Soni also by letter dated 28.03.2017 submitted that the Panchnama drawn at his premises records incorrect facts never stated by him to the effect that he was looking after sales work of Ambay Maa Products, in VIP and Taaza brands bearing description as Sugandhit Supari tobacco is

also mixed and that the owner of these brands is the Appellant. On 30.03.2017, search was also conducted at the factory premises of one M/s Anshika Poly Print, 850 Rania, Kanpur and also the residence of its partner. The statement of Shri Manoj Chaurasiya was also recorded on 03.04.2017 wherein he stated that he used to get orders from agents and in his statement dated 13.02.2020 he stated that as per the information received from the agents, the Appellant is the owner of A-1 and VIP brands.

8. One of the co-owner of the premises situated at 105, Baldau Chowk, Orai also submitted letter dated 09.09.2017 to the effect that the said premises was owned by him and his relative and the premises was given on rent by them to Shri Ram Kumar Parihar in support of which he also submitted rent receipt. In the meanwhile, the officers sent the samples of finished goods drawn from the premises situated at 105, Baldau Chowk, Orai for testing to Central Revenue Control Laboratory³ for the presence of ingredients, namely beetle nut, lime, catechu and tobacco. The CRCL in its reports did not confirm the presence of tobacco and thereafter the samples were sent to the Referral Food Laboratory⁴ and the report of RFL dated 02.08.2017 indicated presence of nicotine in the samples. SCN dated 01.09.2017 was then issued directing the Appellant to show cause as to why not the raw-materials valued at Rs.9,56,815/- and finished goods valued at Rs.2,03,225/- seized from the alleged factory premises situated at 105, Baldau Chowk, Orai and raw material valued at Rs.2,12,380/- along with currency of Rs.16,72,000/- seized from the residence of the Appellant, may not be confiscated. The SCN was adjudicated vide Order-in-Original dated 31.12.2018, confiscating the goods seized from the alleged factory premises situated at 105, Baldau Chowk, Orai and also the goods along with the currency seized from the residence of the Appellant. Penalty of Rs.1,50,000/-

³ CRCL

⁴ RFL

was also imposed on the Appellant under Rule 25 of the Central Excise Rules, 2002⁵.

9. The Order-in-Original dated 31.12.2018 was challenged by the Appellant before the Commissioner (Appeals) and by impugned Order-in-Appeal dated 28.05.2019, the appeal filed by the Appellant was rejected and confiscation of goods and currency along with imposition of penalty on the Appellant has been upheld. The said Order-in-Appeal dated 28.05.2019 was then challenged by the Appellant before this Tribunal.

10. During the pendency of the aforesaid appeal, SCN dated 31.05.2021 came to be issued by DGCEI, alleging that the Appellant is the mastermind and main beneficiary of manufacturing and sale of Gutkha and tobacco. The SCN directed to the Appellant to show cause as to why central excise duty amounting to Rs.49,62,028/- should not be recovered under the proviso to Section 11A(4) of the Act along with interest and penalty under Rule 25 of the Rules. The SCN dated 31.05.2021 was adjudicated vide Order-in-Original dated 18.10.2023, by which the demand of duty of Rs.49,62,028/- along with interest and penalty of Rs.49,62,028/- was confirmed against the Appellant. Penalty of Rs.5,00,000/- was also imposed on Shri Ram Kumar Parihar. The Appellant challenged the Order-in-Original dated 18.10.2023 before Commissioner (Appeals), which appeal has been rejected by the impugned Order-in-Appeal dated 26.04.2024. Hence the two appeals before the Tribunal.

11. Ld. counsel for the Appellant submits that the Appellant is not connected with any activity relating to the alleged factory premises situated at 105, Baldau Chowk, Orai, the said premises was in the possession of Shri Ram Kumar Parihar against whom no enquiry has been conducted, the entire case of the revenue is based on statements obtained under duress and coercion and were subsequently retracted and have also not underwent the procedure contemplated under Section 9D, the loose papers

⁵ Rules

purportedly resumed from Appellant's residence were not in the handwriting of the Appellant. Without prejudice to these submissions, the Ld. counsel further submitted that duty liability can be fastened only on evidence of manufacturing activity whereas no manufacturing activity was found during search dated 08.03.2017, contents of Panchnama have been blindly relied without proving the same and the confiscation of goods and currency from the residence of the Appellant is bad in law.

12. Per contra, Ld. Departmental Authorized Representative for the Revenue supported the impugned orders and has submitted that there is enough material on record to prove manufacturing activities at the factory premises situated at 105, Baldau Chowk, Orai were linked with the Appellant and that the Appellant is the person behind the entire scheme of clandestine manufacturing and removal of goods and therefore the duty liability has been rightly fastened on the Appellant and the currency of Rs.16,72,000/- has rightly been confiscated along with goods.

13. A perusal of the SCN dated 31.05.2021, adjudication order dated 18.10.2023 and the impugned order dated 26.04.2024 shows that the entire case of the revenue against the Appellant is that the Appellant is the owner of the alleged factory premises situated at 105, Baldau Chowk, Orai where raw materials were mixed by hand, the Appellant has clandestinely manufactured and cleared Gutkha and tobacco from the said factory premises and therefore the Appellant is liable to pay duty on the clandestinely cleared goods. The material relied upon by the revenue for linking the Appellant with the alleged factory premises is the statements dated 08.03.2017 of Shri Ram Kumar Parihar and Appellant's wife Smt. Preeti Dwivedi, statements of Shri Ramesh Soni, Shri Manoj Chaurasiya, goods along with currency along with loose papers seized/resumed from the residence of the Appellant.

14. I find that Shri Ram Kumar Parihar in his initial statement dated 08.03.2017 stated that the premises situated at 105, Baldau Chowk, Orai was used for manufacturing and sale of

Gutkha under the names of non-existent units, he was working as a supervisor in the premises on the directions of the Appellant who is the owner of the premises and materials such as cut supari, lime, kattha, tobacco, clove are received in the factory and mixed and packed by hands. However, by letter dated 28.03.2017, he not only retracted his earlier statement but stated that the statement dated 08.03.2017 was recorded under pressure. He also stated that the said premises was taken on rent by him from the owners for using the same as godown for storage of pouches purchased from agent of M/s Ambey Maa Product four to five years back. He also explained why empty pouches were stored by him in the said premises.

15. The Revenue has also relied on the statement dated 08.03.2017 of Appellant's wife Smt. Preeti Dwivedi, in respect of which the Appellant by letter dated 26.03.2017 submitted that during the course of search proceedings, his wife was pressurized and coerced to sign on blank papers. Thus, the case of the Appellant is that the initial statement of his wife was obtained as a result of pressure and coercion.

16. However, despite the initial statement was retracted by Shri Ram Kumar Parihar and the specific case of the Appellant that his wife's statement was recorded under pressure and coercion, the statements have been relied upon in the adjudication order on the ground that the statements were voluntary, without proving as to how the said statements were voluntary. Law in this regard is well settled in **Vinod Solanki vs. Union of India (2008) 16 SCC 537**, wherein the Hon'ble Supreme Court has held as under:-

"36. A person accused of commission of an offence is not expected to prove to the hilt that confession had been obtained from him by any inducement, threat or promise by a person in authority. The burden is on the prosecution to show that the confession is voluntary in nature and not obtained as

an outcome of threat, etc. if the same is to be relied upon solely for the purpose of securing a conviction.”

17. To the same effect is the judgment of Hon'ble Supreme Court in **Commissioner of Customs (Imports), Mumbai vs. Ganpati Overseas (2023) 386 E.L.T. 802 (SC)**, wherein the Hon'ble Supreme Court after considering the catena of judgments on the subject has held as under:-

"28. Thus, what is deducible from an analysis of the relevant legal provisions and the corresponding judicial pronouncements is that a customs officer is not a police officer. Further, the person summoned and who makes a statement under section 108 is not an accused. However, a statement made by a person under section 108 of the Customs Act before the concerned customs officer is admissible in evidence and can be used against such a person. Object underlying Section 108 is to elicit the truth from the person who is being examined regarding the incident of customs infringement. Since the objective is to ascertain the truth, the customs officer must ensure the truthfulness of the statement so recorded. If the statement recorded is not correct, then, the very utility of recording such a statement would get lost. It is in this context that the customs officer who is empowered under section 108 to record statement etc. has the onerous responsibility to see to it that the statement is recorded in a fair and judicious manner providing for procedural safeguards to the concerned person to ensure that the statement so recorded, which is admissible in evidence, can meet the standard of basic judicial principles and natural justice. It is axiomatic that when a statement is admissible as a piece of evidence, the same has to conform to minimum judicial standards. Certainly a

statement recorded under duress or coercion cannot be used against the person making the statement. It is for the adjudicating authority to find out whether there was any duress or coercion in the recording of such a statement since the adjudicating authority exercises quasi-judicial powers."

Thus, the Adjudicating Authority was required to examine as to whether the statements were voluntary or not before relying upon the statements and the adjudication order does not show that this exercise has been conducted by the Adjudicating Authority.

18. Further, once the initial statement was retracted by Shri Ram Kumar Parihar, the revenue could not have relied upon as a substantive piece of evidence unless other corroborative material is on record, as held by Hon'ble Delhi High Court in the case of **Commissioner of Central Excise vs. Vishnu & Co. Pvt. Ltd. (2016) 332 E.L.T. 793 (Del)**, wherein the Hon'ble Delhi High Court has held as under:-

"40. In fact Ms. Sharma too insisted upon reading from such retracted statements in order to persuade the Court to hold that the impugned order of the CESTAT is perverse. According to her the retraction made more than 20 months after the making of the initial statements "would have no effect in the eye of law". She too submitted that the responsibility of ensuring the presence of such persons for cross-examination was of the noticees themselves.

41. What the above submission overlooks is the 'reliability' of such statements. Once it is shown that the maker of such statement has in fact resiled from it, even if it is after a period of time, then it is no longer safe to rely upon it as a substantive piece of evidence. The question is not so much as to admissibility of such statement as much as it is

about its 'reliability'. It is the latter requirement that warrants a judicial authority to seek, as a rule of prudence, some corroboration of such retracted statement by some other reliable independent material. This is the approach adopted by the CESTAT and the Court finds it to be in consonance with the settled legal position in this regard."

19. The statements of Shri Ramesh Soni and Shri Manoj Chauraisya have also been relied upon by the revenue. While Shri Ramesh Soni retracted from his statement by submitting letter dated 28.03.2017, Shri Manoj Chaurasiya in his statement dated 03.04.2017 did not name the Appellant whereas his subsequent statement dated 13.02.2020 is clearly hearsay and cannot be relied against the Appellant. I also find that the statement relied upon against the Appellant were not admitted in evidence by the Adjudicating Authority, as required under Section 9D (1)(b) of the Act nor he invoked clause (a) of Section 9D(1). The provisions of Section 9D are mandatory and in absence of such statements being admitted as evidence, such statements are not relevant and have to be eschewed from consideration. Reference in this regard may be made to judgment of Hon'ble Punjab & Haryana High Court in **Jindal Drugs P. Ltd. vs. Union of India (2016) 340 E.L.T. 67**, where the following proposition of law has been laid down:-

"11. *As already noticed hereinabove, sub-section (1) of Section 9D sets out the circumstances in which a statement, made and signed before a gazetted Central Excise Officer, shall be relevant for the purpose of proving the truth of the facts contained therein. If these circumstances are absent, the statement, which has been made during inquiry/investigation, before a Gazetted Central Excise Officer, cannot be treated as relevant for the purpose of proving the facts contained therein. In*

other words, in the absence of the circumstances specified in Section 9D(1), the truth of the facts contained in any statement, recorded before a Gazetted Central Excise Officer, has to be proved by evidence other than the statement itself. The evidentiary value of the statement, insofar as proving the truth of the contents thereof is concerned, is, therefore, completely lost, unless and until the case falls within the parameters of Section 9D(1).

12. *The consequence would be that, in the absence of the circumstances specified in Section 9D(1), if the adjudicating authority relies on the statement, recorded during investigation in Central Excise, as evidence of the truth of the facts contained in the said statement, it has to be held that the adjudicating authority has relied on irrelevant material. Such reliance would, therefore, be vitiated in law and on facts.*

XXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

17. *There is no justification for jettisoning this procedure, statutorily prescribed by plenary Parliamentary legislation for admitting, into evidence, a statement recorded before the Gazetted Central Excise Officer, which does not suffer from the handicaps contemplated by clause (a) of Section 9D(1) of the Act. The use of the word "shall" in Section 9D(1), makes it clear that, the provisions contemplated in the sub-section are mandatory. Indeed, as they pertain to conferment of admissibility to oral evidence they would, even otherwise, have to be recorded as mandatory.*

18. *The rationale behind the above precaution contained in clause (b) of Section 9D(1) is obvious. The statement, recorded during inquiry/investigation, by the Gazetted Central Excise*

Officer, has every chance of having been recorded under coercion or compulsion. It is a matter of common knowledge that, on many occasions, the DRI/DGCEI resorts to compulsion in order to extract confessional statements. It is obviously in order to neutralize this possibility that, before admitting such a statement in evidence, clause (b) of Section 9D(1) mandates that the evidence of the witness has to be recorded before the adjudicating authority, as, in such an atmosphere, there would be no occasion for any trepidation on the part of the witness concerned.

19. *Clearly, therefore, the stage of relevance, in adjudication proceedings, of the statement, recorded before a Gazetted Central Excise Officer during inquiry or investigation, would arise only after the statement is admitted in evidence in accordance with the procedure prescribed in clause (b) of Section 9D(1). The rigour of this procedure is exempted only in a case in which one or more of the handicaps referred to in clause (a) of Section 9D(1) of the Act would apply. In view of this express stipulation in the Act, it is not open to any adjudicating authority to straightaway rely on the statement recorded during investigation/inquiry before the Gazetted Central Excise Officer, unless and until he can legitimately invoke clause (a) of Section 9D(1). In all other cases, if he wants to rely on the said statement as relevant, for proving the truth of the contents thereof, he has to first admit the statement in evidence in accordance with clause (b) of Section 9D(1). For this, he has to summon the person who had made the statement, examine him as witness before him in the adjudication proceeding, and arrive at an opinion that, having regard to the circumstances of the case, the statement should be admitted in the interests of justice."*

20. Reference in this regard may also be made to decision of the Tribunal in **Jeen Bhavani International vs. Commissioner of Customs (2023) 6 Centax 11(Tri-Bom)**, where *pari-materia* provision of Section 138B of Customs Act, 1962 was considered and the following has been held:-

"14.2 We find that the Appellants have shown enough cause for delayed retraction. Learned Commissioner has simply brushed the same aside. He should have examined the Appellant during the adjudication proceedings in terms of Section 138(B) of the Customs Act, 1962, to confirm the veracity. Learned adjudicating authority could have examined the officers too. Section 138B (1) ibid deals with the aspect of relevance of statements under certain circumstances. It has been provided that a statement made and signed by a person during any enquiry or proceeding shall be relevant, for the purpose of proving an offence, when the person, who made the statement, is examined as a witness in the case before the court. In this case, having acknowledged that the retraction has been made by the Appellant in the course of the adjudication proceedings, more specifically, during the period between issuance of SCN and passing of the impugned order, it was incumbent upon the learned adjudicating authority to examine the person, who made the statement. However, the adjudicating authority chose to rely on the statement alone as evidence, which is beyond the scope and ambit of the statutory provisions. Thus, contents of the retracted statement cannot simply be brushed aside, to conclude that the Appellant has indulged into the activity of undervaluation of goods."

Jeen Bhavani International (supra) was challenged by revenue before the Hon'ble Supreme Court in **Commissioner of Customs vs. Jeen Bhavani International (2023) 6 Centax 14 (SC)** and the appeal was dismissed as under:-

"1. We have heard Mr. N. Venkataraman, learned Additional Solicitor General, appearing for the Appellant.

2. Delay condoned.

3. We do not find any merit in these appeals and the same accordingly stand dismissed.

4. Pending application(s), if any, shall stand disposed of."

21. Therefore, the statements relied upon by revenue are not admissible evidence and the same are required to be eschewed from consideration. Apart from the statements, the revenue has relied upon by the presence of goods namely tobacco, katha, clove, lime, cardamom powder, pepper mint and packing material from the residence of the Appellant. While the case of the Appellant is that these goods were purchased by the Appellant for starting trading business during Navratri, the case of the revenue is that the raw materials were intended to be transferred to the alleged factory premises.

22. On this issue, I find that though the Appellant could not produce purchase documents in its defence, however apart from statements there is no evidence or material on record to show that the Appellant was storing raw material and thereafter transferring the same to the alleged factory premises. Once it has been held in preceding paragraphs that the statements have to be eschewed from consideration, I find there is absolutely no material to link the goods found at the Appellant's residence with the raw material found at the alleged factory premises. For linking the same, revenue could have examined the goods found at Appellant's residence with the goods found at the alleged factory premises, however this exercise also has not been

conducted in the present case and therefore no adverse inference can be drawn against the Appellant merely because some goods were found at the residence of the Appellant. As regards the loose papers/documents resumed from the Appellant's residence, it is the consistent case of the Appellant since beginning that the said papers were planted at his residence and the said papers were not in his handwriting. In this regard, I find that despite the categorical case set up by the Appellant, the revenue had not conducted any investigation in respect of the handwriting.

23. Further, once the Appellant disputed the very recovery of loose papers/documents from his residence and also the contents of the same, the revenue ought to have proved the contents by investigating the details mentioned therein and finding out details of the recipients and other supporting material to show that the details mentioned in such documents are details of clandestinely cleared goods by the Appellant. However no such enquiry has been conducted in the present case and the details mentioned in the documents are presumed to be clandestinely cleared and duty has been quantified. As held by the jurisdictional Hon'ble High Court in the case of M/s Continental Cement Company vs. Union of India 2014 (309) E.L.T. 411 (All), the charge of clandestine removal is a serious charge, required to be proved by revenue by tangible and sufficient evidences, which are clearly missing in the present case.

24. The case of the Appellant that he has no connection with the alleged factory premises and the said premises was in possession of Shri Ram Kumar Parihar, which fact was not only admitted by Shri Ram Kumar Parihar but also by the owner of the said premises. Once the person who was found during search dated 08.03.2017, retracted from his earlier statement and admitted that the premises was taken on rent by him, which fact was further corroborated by the owner of the premises and there being no direct/indirect admissible evidence linking Appellant was the alleged factory premises, the only conclusion which can

be drawn is that the Appellant is not connected with the alleged factory premises.

25. Further, I find that the entire case of the revenue is that manufacturing was done by hand i.e. by mixing raw materials by hand. In this regard, I find that the revenue not only alleges presence of any sealing machine or even a hand sealer in the alleged factory premises. Neither the Panchnama nor the SCN alleges that there was some machine or equipment found at the alleged factory premises with the help of which pouches were sealed. It is a matter of common knowledge that merely by mixing of raw materials, Guthka or tobacco does not become marketable but the same became marketable only when the pouches are filled with mixture and are then sealed. On these facts, the entire case of the revenue regarding manufacturing activity not only appears to be doubtful but is also not supported with necessary evidences.

26. So far as test reports of CRCL and RFL and the Appellant's submission in this regard are concerned, the same are not required to be dealt with once it has been held in preceding paragraphs that the revenue has failed to bring on record sufficient admissible evidences to link the Appellant with the alleged factory premises. The test reports of RFL merely show that the samples contained tobacco, which fact even if accepted, would not make the Appellant liable to duty.

27. So far as confiscation of goods and currency seized from the Appellant's residence is concerned, confiscation of the same cannot be upheld in absence of any material or evidence showing any link with the goods seized from the alleged factory premises and the Appellant's connection with the alleged factory premises. Therefore, confiscation of goods and currency seized from the Appellant's residence cannot be upheld and the same is therefore set-aside. The penalty of Rs.1,50,000/- imposed on the Appellant also cannot be sustained for the same reasons. The Order-in-Original No.28/CX/ADJ/2018 dated 31.12.2018 and impugned Order-in-Appeal No.152/CE/ALLD/2019 dated 28.05.2019 are therefore modified to this extent.

28. For the reasons stated above, demand of duty and imposition of penalty on the Appellant vide Order-in-Original No.104/ST/ADT-CIR-II/KNP/2023 dated 18.10.2023 and upheld vide impugned Order-in-Appeal No.246/CE/ALLD/2024 dated 26.04.2024 is also set aside and both the orders are modified to this extent.

29. In view of the above, both the appeals are allowed and the impugned Order-in-Appeal No.152/CE/ALLD/2019 dated 28.05.2019 and impugned Order-in-Appeal No.246/CE/ALLD/2024 dated 26.04.2024, to the extent challenged by the Appellant are set-aside, with consequential reliefs to the Appellant, as per law.

(Order pronounced in open court on - **09.12.2025**)

Sd/-

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

LKS