

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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 424 of 2008

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the
Commissioner of Central Excise, Bangalore I Commissionerate]

Bata Krishna Sahoe

....Appellant

M/s. Shakthi Metal Industries
36A, Jigani Industrial Area
Road No. 3, Anekal Taluk
Bangalore

VERSUS

C.C.E-Bangalore - I

....Respondent

Post Box No. 5400,
C.R. Buildings
Bangalore - 560 001

WITH

(i) Excise Appeal No. 425 of 2008 (Pranoy Ray, Manager)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the
Commissioner of Central Excise, Bangalore I Commissionerate]

**(ii) Excise Appeal No. 426 of 2008 (Dhoop Consultancy
Services Pvt. Ltd.)**

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the
Commissioner of Central Excise, Bangalore I Commissionerate]

(iii) Excise Appeal No. 427 of 2008 (Radeshym Rai)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the
Commissioner of Central Excise, Bangalore I Commissionerate]

**(iv) Excise Appeal No. 428 of 2008 (Dilip Kumar Pandey,
Supervisor)**

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the
Commissioner of Central Excise, Bangalore I Commissionerate]

(v) Excise Appeal No. 429 of 2008 (Monisha Iron and Steel)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the Commissioner of Central Excise, Bangalore I Commissionerate]

(vi) Excise Appeal No. 430 of 2008 (Akshaya Enterprises)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the Commissioner of Central Excise, Bangalore I Commissionerate]

(vii) Excise Appeal No. 431 of 2008 (Nitesh Steel Traders)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the Commissioner of Central Excise, Bangalore I Commissionerate]

(viii) Excise Appeal No. 432 of 2008 (Pooja Steels)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the Commissioner of Central Excise, Bangalore I Commissionerate]

(ix) Excise Appeal No. 433 of 2008 (Akbar Iron Mart)

[Arising out of Order-in-Original No. 02/2008 dated 29.01.2008 passed by the Commissioner of Central Excise, Bangalore I Commissionerate]

APPEARANCE:

None for the Appellants

Mr. H. Jayathirtha, AR for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order Nos.: 21193 - 21202 / 2023

Date of Hearing:11/08/2023

Date of Decision:11/08/2023

Per: PULLELA NAGESWARA RAO

None present for the appellants. These appeals are filed against the Order-in-Original No. 02/2008 challenging the penalty imposed on each of the appellant ranging from

Rs. 10,000/- (Rupees Ten Thousand only) to Rs. 200,000/- (Rupees Two Lakhs only) which are as follows:

Sl. No.	Appeal No.	Penalty (Rs.)
1	E/424/2008	50,000/-
2	E/425/2008	50,000/-
3	E/426/2008	2,00,000/-
4	E/427/2008	50,000/-
5	E/428/2008	10,000/-
6	E/429/2008	2,00,000/-
7	E/430/2008	10,000/-
8	E/431/2008	10,000/-
9	E/432/2005	10,000/-
10	E/433/2008	10,000/-

2. Learned AR for the Revenue submits that the main appellant M/s. Shakthi Metal Industries case has been settled under SVLDRS. Further he submits that since the penalty imposed on each of the appellant is not in excess of Rs. 2,00,000/- (Rupees Two Lakhs only), therefore this Tribunal may not exercise its jurisdiction in view of second proviso to Section 35B of Central Excise Act, 1944.
3. We find force in the contention of the learned AR for the Revenue that in the appeals @ Sl. Nos. 5 & 7 to 10 amount of penalty involved is Rs. 10,000/- (Rupees Ten Thousand only),

@ Sl. Nos. 1, 2 & 4 Rs. 50,000/- (Rupees Fifty Thousand only) and @ Sl. Nos. 3 & 6 is Rs. 2,00,000/- (Rupees Two Lakhs only) and the main appeal is settled under SVLDRS, hence these appeals are not entertained, in view of the discretion vested under second proviso to Section 35B of Central Excise Act, 1944 as the issue involved is only imposition of penalty. Appeals are disposed of as above.

(Dictated & pronounced in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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