

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH  
BANGALORE**

Appeal(s) Involved:

**E/20636/2018-SM, E/20637/2018-SM, E/20638/2018-SM,  
E/20639/2018-SM**

[Arising out of Order-in-Appeal Nos. 104 to 107/2018 dated  
08/02/2018 passed by the Commissioner of Central Tax,  
Bangalore-I (Appeals)]

**Page Industries Ltd.**

Khata No. 149/1, Survey No. 63/5/1  
Kodichikanahalli Main Road, Begur  
Hobli, Bommanahalli  
Bangalore - 560 068  
Karnataka

**Appellant(s)**

**Versus**

**Commissioner Of Central Tax,  
Bangaluru South  
Commissionerate**

5th Floor, C.R. Buildings, PB No.5400,  
Queens Road  
Bangalore - 560 001  
Karnataka

**Respondent(s)**

**Appearance:**

Mr. Girish K, CA  
No.36, Chatura Homes, 2nd Main,  
Meenakshinagar, Near Krishna  
Kalyana Mantapa,  
Basaveshwaranagar,  
Bangalore - 560 079

For the Appellant

Mr. Madhup Sharan, Assistant  
Commissioner (AR)

For the Respondent

Date of Hearing: 02/01/2019

Date of Decision: 02/01/2019

**CORAM:**

**HON'BLE MR. S.S GARG, JUDICIAL MEMBER**

**Final Order Nos. 20004 - 20007 / 2019**

**Per: S.S GARG**

These four appeals have been directed against the common impugned order dated 08.08.2018 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) has dismissed all the four appeals. Since the issue involved in all the appeals is identical, therefore all the appeals <sup>are being</sup> ~~have been~~ disposed of by this common order. These appeals are basically against penalty which has been imposed on the appellant for late filing of their ER-1 Returns in terms of Central Excise (Amended) Rules, 2015 read with Notification No. 8/2015 Central Excise (N.T) Rules, 2002. The details of all the four appeals are given herein below:

Sl. No.	Appeal No.	Order-in-Appeal No. & Date	Amount of Penalty involved (Rs.)
1	E/20636/2018	104 to 107/2018 dated 08/02/2018	86,200/-
2	E/20637/2018	104 to 107/2018 dated 08/02/2018	1,39,800/-
3	E/20638/2018	104 to 107/2018 dated 08/02/2018	21,800/-
4	E/20639/2018	104 to 107/2018 dated 08/02/2018	1,39,600/-

2. Heard both the parties and perused the records.
3. Learned consultant for the appellant submitted that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts, evidence and the law. He further submitted that the Demand Order dated 21.03.2016 passed by the Superintendent of Central

Excise is without the authority of law inasmuch as said officer had exceeded the powers conferred under law and thereby contravened the provisions of Central Excise Act and the Rules. He further submitted that the adjudicating authority has levied the penalty on the appellant without issue of show-cause notice and also without providing an opportunity of hearing which is contrary to the principles of natural justice. He also submitted that during the relevant period the appellant had taken Central Excise Registration and was availing exemption in terms of Notification No. 11/2013 dated 01.03.2013 in respect of excisable goods falling under Chapter 61 to 63 manufactured through job-worker and filing 'nil' return. However there was delay on some occasions in filing the 'nil' return which was not intentional. He further submitted that the Commissioner (Appeals) has also not considered the submissions made by him and has only observed that ignorance of law is no excuse.

4. On the other hand the learned AR reiterated the findings of the impugned order.

5. After considering the submissions of both the parties and perusal of the material on record, I find that on certain occasion there was a delay in filing the return by the appellant as the appellant was unaware of the requirement of ER-1 returns under the mistaken belief that they were not required to file the same as they were not liable to pay the excise duty on account of the exemption. Further I find that the Superintendent vide the Demand Order dated 21.03.2016 has imposed the penalty for delayed filing

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E/20638/2018, E/20639/2018-SM

of the ER-1 returns without affording an opportunity of hearing and without issuing a show-cause notice which is a mandatory requirement for imposing any penalty. Further I find that the Commissioner (Appeals) has also not considered the violation of the principles of natural justice. Further I find that the observation of the Superintendent in the Demand Notice that there is no need to pass a speaking order is not tenable in law. It is the fundamental requirement of issuing a show-cause notice and affording an opportunity of hearing to the affected party before imposing penalty. Since that fundamental principle has not been followed in the present case, I am of the considered view that the impugned order imposing penalties for late filing the ER-1 return is not sustainable in law and therefore, I set aside the penalties by allowing all the four appeals of the appellant.

(Operative portion of the Order was pronounced  
in Open Court on **02/01/2019**)

  
(S.S GARG)  
JUDICIAL MEMBER