CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 134 of 2009
(Arising out of Order-in-Original No. 05/2008-CE dated 07.11.2008 passed by the Commissioner of Central Excise & Customs, Calicut Commissionerate, Calicut.)

M/s. Floral Aromatics,
Silk Street,
Calicut.
Appellant(s)

VERSUS

The Commissioner of Central Excise and Customs, Calicut Commissionerate
CR Buildings, Mananchira,
Calicut.
Respondent(s)

With

Central Excise Appeal No. 135 of 2009
(Arising out of Order-in-Original No. 05/2008-CE dated 07.11.2008 passed by the Commissioner of Central Excise & Customs, Calicut Commissionerate, Calicut.)

Sri Surendra Mohan Gupta,
Managing Partner,
M/s. Flora Aromatics,
Silk Street,
Calicut.
Appellant(s)

VERSUS

The Commissioner of Central Excise and Customs, Calicut Commissionerate
CR Buildings, Mananchira,
Calicut.
Respondent(s)

APPEARANCE:

Mr. Raghavendra, Advocate for the Appellant

Mr. K Vishwanatha, Superintendent (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 21067 - 21068 /2024

DATE OF HEARING: 25.04.2024
DATE OF DECISION: 21.10..2024

PER : DR. D.M. MISRA

These two appeals are filed against Order-in-Original No.5/2008-CE dated 07.11.2008 passed by the Commissioner of Central Excise and Customs, Calicut.

2. Briefly stated the facts of the case are that the appellants were engaged in the manufacture of Sandalwood oil from their premises at Silk Street, Calicut. They have surrendered their registration in 2002. On the basis of intelligence gathered that the appellant even though surrendered their registration but continued their manufacturing operation, the premises of the Managing Partner of the appellant Mr. Surendra Mohan Gupta and one Mr. C.P. Mohammed Barami were searched and various documents were seized under Mahazar dated 20.04.2004. Statements of various persons were recorded including that of Mr. Mohammed Barami and Mr. Shahul Hameed, Office Clerk of the appellant, Mr. Alphonse Williams, Mrs. Prepilja, Chemist, Mr. Jason Oberon, Clerk and Mr. Surendra Mohan Gupta, Managing Partner, from time to time. On completion of investigation, a show-cause notice was issued on 13.03.2009 alleging clandestine manufacture and clearance of 1250 kgs. of Sandalwood Oil valued at Rs.3,18,75,000/- involving total duty of Rs.51,00,000/- without payment of duty during the period December 2003 to February 2004 and proposed to be recovered with interest and penalty; proposed personal penalty on the Managing Partner Mr. Surendra Mohan Gupta. On adjudication, the said demand was confirmed and the amount paid during the course of adjudication with interest was appropriated; personal penalty of Rs.5.00 lakhs was imposed on Mr. Surendra Mohan Gupta under Rule 26 of the Central Excise Rules, 2002. Hence, the present appeals.

3.1. Learned advocate for the appellant has submitted that in the impugned order, the demand was confirmed solely on the basis of assumptions and presumptions without even a single piece of evidence with regard to manufacture and clandestine removal of Sandalwood Oil. The demand was confirmed on the statement obtained from the Managing Partner after two years of investigation under pressure and coercion. The Department has not made any effort to collect the details of buyers of the final product, supplier of raw materials etc.; hence, the demand is not sustainable. It is submitted that the appellant had closed their manufacturing unit in the year April 2002 itself and surrendered the Excise Registration certificate on 25.06.2002 and also dismantled and sold the machineries immediately. Under these circumstances, the burden lies on the Department to prove the allegation of manufacture and clandestine removal of goods. No corroborative evidences have been collected conducting further investigation at the end of the supplier of raw material and packing materials, buyers of Sandalwood Oil, transporters / courier agencies; the demand has been confirmed on the basis of handwritten slip recovered from the house of Mr. Mohammed Barami which consists of procurement and clearances of goods from other units on the ground that the appellant had failed to explain certain entries with cogent evidence, whereas duty was not demanded on certain entries on the ground that the same were related to duty paid clearances pertaining to other units. This itself creates a serious doubt in demanding the duty solely on the basis of the statements. In case of allegation of clandestine removal, the duty cast on the Revenue to prove the fact of manufacture, place of removal, clandestine clearance of the goods which had not been carried out in the present case by the Department. He has further submitted that the Revenue has recorded three statements from the Managing Partner but did not consider the first two statements and confirmed the demand solely on the basis of 3rd statement. In support, he has referred to the following judgments:-

- ***Bihar Foundry & Casting Ltd. Vs. CCE., Ranchi*** [(2023) 3 Centax (Jhar.)]
- ***Raghuveer Rolling Mills vs. CCE*** [(2024) 15 Centax 127 (Tri- All)]
- ***Patidar Products vs. CCE & ST., Bhavnagar*** [(2023) 9 Centax 231 (Tri-Ahmd)]
- ***Super Forgings & Steel Ltd. Vs. CCE*** [(2024) 17 Centax 34 (Tri-Cal)]
- ***Parot Power Pvt. Ltd. Vs. CCE & ST*** [(2024) 17 Centax 334 (Tri- Ahmd.)]
- ***M/s. Prinik Steels (P) Ltd. & others vs. Commissioner of CEx., Cus. & ST., Bhubaneswar-I - Final Order No. 77518-77521/2023 dated 23.11.2023 passed by CESTAT., KOLKATA in Appeal Nos. 533- 536/2010***
- ***Ambika Iron & Steel Pvt. Ltd. vs. CCE., Cus. & ST., Rourkela*** [2022 (380) E.L.T. 351 (Tri. - Kolkata)]
- ***Continental Cement Company vs. UOI*** [2014 (309) E.L.T. 411]
- ***Hi tech Abresives Ltd. vs. CCE & Cus., Raipur*** [2018 (362) E.L.T. 961 (Chhattisgarh)]
- ***Commissioner of Central Excise, Delhi-I v. Vishnu & Co. Pvt. Ltd***. [2016 (332) E.L.T. (793)]
- ***CC., CE & ST., Ghaziabad vs. Auto Gollon Industries P.Ltd.*** [2018 (360) E.L.T. 29 (All.)]
- ***Triveni Engineering & Industries Ltd. vs. CCE., Allahabad*** [2016 (334) E.L.T. 595 (All.)]
- ***Commissioner vs. Motabhai & Steel Industries*** [2015 (316) E.L.T. 374 (Guj.)]
- ***Amba Lal vs. UOI & Others*** [2010 (259) E.L.T. 652 (Bom.)]
- ***CCE., Meerut-I vs. R.A. Castings Pvt. Ltd.*** [2012 (26) STR 262 (All.)]
- ***Balashri Metals Pvt. Ltd. vs. UOI*** [2017 (345) ELT 187 (Jhar.)]
- ***Om Shanti Steel & Casting Pvt. Ltd. vs. UOI*** [2017 (347) ELT 441 (Jhar.)]
- ***CCE., Chandigarh vs. Nachiketa Paper Ltd***. [2008 (225) ELT 194 (P&H)]
- ***Flevel International vs. CCE*** [2016 (332) ELT 416 (Del.)]
- ***Suntrek Aluminum Pvt. Ltd. vs. CC., CE & ST., Rajkot*** [2013 (288) ELT 500 (Guj.)]

3.2. On the argument that the burden to prove the allegation of manufacture and clandestine clearance is on the Department, the learned advocate placed reliance on the following judgments:-

- ***Pacific Pharmaceuticals Pvt. Ltd. vs. CCE., Bangalore-II*** reported in [2007 (216) E.L.T. 263 (Tri. - Bang.)]
- ***Vidya Laminates Pvt. Ltd. vs. CCE, Ahmedabad*** reported in [2006 (197) E.L.T. 260 (Tri. - Mumbai).]
- ***CCE., Chennai-I vs. Indian Steel & Allied Products*** [2016 (344) E.L.T. 292 (Tri. - Chennai)]
- ***CCE., Raipur vs. ABS Metals (P) Ltd.*** [2016 (341) E.L.T. 425 (Tri. - Del.)]
- ***Bindal Textile Mills Ltd. vs. CCE., Thane 428*** (Tri. - Mumbai) 2016 (338) E.L.T.

3.3. He has further submitted that the statement was given under pressurising circumstances by the Managing Partner who was forced to admit the clandestine activity and made to pay the differential duty at the stage of investigation itself, which itself does not establish the case of clandestine clearance. The appellant had contested the statement recorded on 12.04.2006 on the ground that it was obtained after more than 2 years of investigation under pressure and coercion. The said statement should not have been relied upon by ignoring the other two statements furnished earlier as well as the statements recorded from other persons without subjecting to cross-examination. He has submitted that as per Section 9D of the Central Excise Act, 1944, the statements recorded during the course of investigation should not be admissible as evidence in absence of examination of witnesses. In support, he has referred to the following judgments:

- ***Flevel International Vs. CCE*** [2016(332) ELT 416 (Del.)]
- ***Jai Balaji Industries Ltd. vs. CGST*** [2023-VIL-771-CESTAT-KOL-CE]

- ***G-Tech Industries vs. UOI*** [2016 (339) ELT (P&H)]
- ***M/s. Prinik Steels (P) Ltd. & others vs. Commissioner of CEx., Cus. & ST., Bhubaneswar-I Final Order No. 77518-77521/2023 dated 23.11.2023 passed by CESTAT., KOLKATA in Appeal Nos. 533-536/2010***
- ***Patidar Products vs. CCE & ST., Bhavnagar*** [(2023) 9 Centax 231 (Tri-Ahmd)]

Thus, the demand confirmed in the impugned order cannot be sustained and duty and interest paid by them is liable to be refunded.

3.4. Further, he has submitted that in the impugned order, cum-duty benefit was not allowed even though the entire amount of duty was paid by the appellant during the course of investigation. In support, they referred to the judgment in the case of ***CCE, Delhi Vs. Maruti Udyog Ltd***. [2002(141) ELT 3 (SC)].

3.5. Further, he has submitted that extended period of limitation is not applicable as the appellant had not suppressed any facts with intent to evade payment of duty as the show-cause notice was issued solely on the basis of one statement of the Managing Partner which was obtained under threat and coercion. Further, the investigation started in the month of April, 2004 and completed in 2004 itself, which clearly shows that there was no suppression of fact. Further, he has submitted that penalty under Section 11AC of the Central Excise Act, 1944 cannot be imposed in the present case as the appellants have paid the duty and interest before issuance of show-cause notice and intimated on 28.04.2006; therefore, no notice should have been issued to the appellant. Further, he has submitted that in any case, the penalty is not imposable on the partner when the penalty is already imposed on the partnership firm. In support, he has referred to the following judgments:-

- ***Rajan Prints vs. CCE & Cus., Surat*** [2009 (236) ELT 720 (Tri. – Ahmd.)]
- ***Compusoft vs. CCE., Mumbai-I*** [2003 (154) ELT 241 (Tri.- Mum.)]
- ***Darshan C. Singhvi vs. CCE., Ahmedabad-I*** [2002 (142) ELT 676 (Tri.-Mum.)]
- ***Kingmakers IAS Academy vs. CGST & CEx., Chennai*** [2022 (61) G.S.T.L. 599 (Tri. - Chennai)]
- ***V K Thampi*** [1988 (33) ELT 424 - 2002(49) RLT 242]
- ***B.C. Sharma*** [2000(122) ELT158-2002 (53) RLT 680]
- ***Naveen Textile Agencies*** [2003[159] ELT 1018]
- ***Inter Scape*** [2003[157] ELT 221]
- ***M/s. Osama Electronics*** [2000(41) RLT 152]
- ***M/s. Mayur Industries*** [2002 (49) RLT 242]
- ***B.C. Sharma*** [2000 (122) ELT 158]
- ***M/s. Durga Trading co.,*** [2002 (53) RLT 680]

4.1. Learned AR for the Revenue reiterated the findings of the learned Commissioner(Appeals). He has submitted that the present case pertains to clandestine manufacture and removal of Sandalwood Oil by the appellant, which based on evidences collected and statements of concerned persons involved in the clandestine operations. During the period December 2003 to February 2004, the appellant purchased raw materials in the name of their units at Delhi and Ghaziabad, diverted to Calicut unit where they manufactured Sandalwood Oil; maintained receipt of raw materials on paper chits (private records) and cleared the finished goods without invoice / bills and received payment in cash. In support of the aforesaid allegation, evidence are viz. paper chits recovered during the search of residential premises belonging to Mr. Mohammed Barami, a close associate of Mr. Surendra Mohan Gupta, Managing Partner of the appellant, which revealed that out of 11 consignments purchased for Delhi & Ghaziabad units, consignments marked as 8 & 3 were not received and accounted at Delhi and Ghaziabad which were diverted to Calicut unit and processed and later the finished goods were cleared without payment of duty. Thus, the case is not based on assumptions and presumptions but based on the concrete evidences on record. These documentary evidences were corroborated by statements of Mr. Surendra Mohan Gupta, Managing Partner who in turn accepted the facts and also not disputed the fact of entrusting the paper chits to Mr. Mohammed Barami. Mr. Surendara Mohan Gupta in his statement dated 12.04.2006 accepted the fact of raw materials viz. Red Oil purchased in the name of their units at Delhi and Ghaziabad and diverted to Calicut Unit, which on manufacture of Sandalwood Oil, removed it without payment of duty. Explaining the details received at Calicut unit, he has accepted that out 5216 kgs. of raw materials accounted for in the seized documents, 3900 kgs of Red Oil were properly accounted and remaining 1316 kgs of Red Oil was received at Calicut Unit. Further, the statement of Mr. Sumesh, Branch In-charge of M/s. DHL Worldwide Express Courier Service revealed that they used to receive parcels, documents from the appellant and content was declared as aromatics samples weighing 5 to 40 gms. He has further submitted that the documents seized from various premises indicate that the transactions through the bank and correspondence with prospective customers that the unit was functioning even though the excise registration was surrendered by them. Mr. Surendra Mohan Gupta, Managing Partner in his statement dated 12.04.2006 admitted that even after surrendering the registration certificate, the said unit had the facility to manufacture during the said period, which later he has dismantled in March 2004 assigning reasons that stringent financial problems during December 2003 to February 2003, he was compelled to repair the dismantled unit after surrendering of excise registration. The statement of Mr. Shahul Hameed, Office Clerk revealed huge amount of cash transaction during December 2003 to February 2004; also in his statement that though the raw materials were purchased for Delhi and Ghaziabad units, payments were made from Calicut account.

Since there is no retraction of the statement of any of the witnesses and the appellant had come forward to pay duty voluntarily, the onus lies on the witnesses to establish that the statement is not recorded correctly. Also, he has submitted that benefit of cum-duty cannot be considered since the appellant's Managing Partner has admitted that sales invoice was not issued for clandestine removal. Further he has submitted that once it is admitted that there is clandestine manufacture and clearance of the goods, the same need not be proved. In support, he has referred the following judgments:

- ***Commissioner of C. EX., Madras Vs Systems & Components Pvt. Ltd.*** [2004 (165) E.L.T. 136 (S.C.)]
- ***S.M. Steel Ropes Vs Commissioner of Central Excise, (ADJ.) Mumbai*** [2014 (304) E.L.T. 591 (Tri, Mumbai)]
- ***Mysore Chipboards Ltd Vs Commissioner of Central Excise, Mysore*** [2012 (282) E.L.T. 112 (Tri. – Bang.)]
- ***Hazari Singh Vs Union of India*** [1999 (110) E.L.T. 406 (S.C.)]
- ***Kollatra Abbas Haji Vs Government of India and Others*** [1984 (15) E.L.T. 129 (Ker.)]

4.2. In support of the fact that cum-duty benefit cannot be extended, the learned AR relied on the following judgments:-

- ***Jay Jalaram Processors Versus Commissioner of Central Excise, Surat*** [2014 (313) E.L.T. 724 (Tri. – Ahmd.)]
- ***PUMM Chem India Versus Commissioner of C. EX. Jalandhar*** [2009 (247) E.L.T. 509 (Tri.- Del.)]
- ***EON Polymers Ltd. Versus Commissioner of Central Excise, Jaipur-I*** [2010 (258) E.L.T. 225 (Tri. – Del.)
- ***Sri Rama Machinery Corporation Ltd. Versus COMMR. of C. EX., Chennai-I*** [2017 (348) E.L.T. 540 (Tri. – Chennai)

4.3. Since the appellant had suppressed the manufacture and clearance of the Sandalwood Oil during the relevant period, extended period is applicable and also penalty under Section 11AC has been correctly imposed in the impugned order. Since Mr. Surendra Mohan Gupta, Managing Partner involved in the removal of the goods without payment of duty, imposition of penalty on him under Rule 26 of the Central Excise Rules, 2000 is justified. In support, he has referred to the following judgments:

- ***COMMR. of C. EX. Delhi-IV, Faridabad Versus Illpea Paramount Pvt. Ltd.*** [2006 (204) E.L.T. 22 (P &H)
- ***Union of India*** *Versus* ***Dharamendra Textile Processors*** [2008 (231) E.L.T. 3 (S.C.)]
- ***CCE & C, Aurangabad Vs Padmashri V.V. Patil S.S.K. Ltd*** [2007 (215) E.L.T. 23 (Bom.)]
- ***Padmashri V.V. Patil S.S.K. Ltd Vs. CCE & Customs*** [2006 (335) ELT 196 (SC)]
- ***Commissioner of Cus., Mangalore Vs Jindal Vijayanagar Steel Ltd*** [2017 (346) E.L.T. 378 (Kar.)]
- ***JSW Steel Ltd. Vs. Commr***. [2017 (346) ELT. A138 (SC)]
- ***Sri Rama Machinery Corporation Ltd. Versus COMMR. of C.EX., Chennai-I*** [2017 (348) E.L.T. 540 (Tri. – Chennai)]

5. Heard both sides and perused the records.

6. The issue involved in the present case for determination are whether:

(i) during the period December 2003 to February 2004, the appellant had manufactured 1250 kgs. of Sandalwood Oil and cleared without payment of duty of Rs.51,00,000/-;

(ii) benefit of cum-duty be allowed to the appellant; and

(iii) extended period is invocable and penalty is imposable on the appellants.

7. Undisputed facts of the case are that on the basis of intelligence, the premises of one Mr. C.P. Mohammed Barami was searched and certain incriminating documents and records were seized on 20.04.2004. On the same day, statement of Mr. Mohammed Barami was recorded which revealed that the said documents were handed over to him by Mr. Surendra Mohan Gupta. The handing over of the said documents was later confirmed by Mr. Surendra Mohan Gupta in his statement dated

18.06.2004. As a part of the investigation of the intelligence gathered by the Department on clandestine manufacture and clearance, the statements of various persons / witnesses associated with the appellant viz. Mr. Mohammed Barami, Mr. Shahul Hameed, Office Clerk, Mrs. Prepilja, Chemist of the appellant, Mr. Jason Oberon, Laboratory Clerk, Mr. Alphonse Williams have been recorded. Also the statement of Mr. Sumesh E.P., Branch In-charge of M/s. DHL Worldwide Courier Service was recorded on 19.08.2004; three statements of Mr. Surendra Mohan Gupta, Managing Partner were recorded, the first one on 18.06.2004 and the second statement on 13.08.2004. After recording these two statements, the bank statements and other documents retrieved were analysed and Mr. Surendra Mohan Gupta thereafter had been summoned on various dates i.e. 28.10.2005, 17.11.2005, 09.11.2005, 13.01.2006 and on 13.03.2006 asking him to furnish his explanation relating to source of income and huge cash transactions recorded in the documents retrieved. Mr. Surendra Mohan Gupta finally appeared on 12.04.2006 and explained the evidences collected from the premises of Mr. Mohammed Barami on 20.04.2004 which initially he did not disclose advancing the plea being unable to recollect the said facts. In the said statement dated 12.04.2006, explaining the entries contained in the evidences i.e. records retrieved from the premises of Mr. Mohammed Barami, he has stated that there was total purchase of 5126 Kgs. of Red Oil at Delhi and Ghaziabad units during 2003-04 in 11 consignments as mentioned in the seized documents and two consignments marked as 8 & 3 were not received and accounted in the books of accounts of Delhi and Ghaziabad units. These two consignments of Red Oil were purchased at Calicut unit and the same was after processing removed without payment of duty and observing necessary formalities. He has identified all these 3900 kgs. of Red Oil which had been accounted in the Delhi and Ghaziabad units from the seized records. Also, he has identified the 1316 kgs. of Red Oil which has been diverted to their Calicut unit for processing. Therefore, it is incorrect to say that the demands were based only on assumptions and presumption and without evidence on record. On the contrary, the chain of evidences like the documents recovered from the premises of Mr. Mohammed Barami which later accepted by the Managing Partner Mr. Surendra Mohan Gupta without questioning its authenticity, subsequent statements of other persons and analysis of these evidences and after avoiding summons for more than one year, Mr. Surendra Mohan Gupta explained the entries by stating diversion of 1316 kgs. of Red Oil to their Calicut unit to manufacture 1250 kgs. of Sandalwood Oil, establish the case of the Department as held by the learned Commissioner in the impugned order. The claim of the learned advocate for the appellant that the entire basis of clandestine manufacture and clearance is assumptions and presumption is, therefore, not acceptable. The Department on the other hand recorded the statements after issuance of summons to various witnesses in compliance with the provisions of Section 14 of the Central Excise Act, 1944, correlated the same with the records retrieved from the premises of Mr. Mohammed Barami revealed clandestine manufacture of 1250 kgs. of Sandalwood Oil in the premises of the appellant by repairing the machineries which is only a baby boiler and a filter jacket, which later was dismantled and sold as scrap. Therefore, the allegation of manufacture and removal of 1250 kgs. of Sandalwood Oil by processing 1316 kgs. of Red Oil had been established.

8. The argument advanced by the learned advocate that since the witnesses have not been examined by the adjudicating authority, therefore, the same cannot be admitted as an evidence in view of Section 9D of the Central Excise Act, 1944 being contrary to the principle laid down by the Hon’ble Jharkand High Court in the case of ***Bihar Foundry and Castings Vs. CCE, Ranchi*** [(2023) 3 Centax 107 (Jhar.)]. The statements

have been recorded after issuing summons under Section 14 of the Central Excise Act, 1944; therefore, as held by the Hon'ble High Court, the statements recorded under Section 14 is *per se* admissible in as evidence. There is no retraction nor any request for cross-examination request advanced by the appellant before the adjudicating authority; therefore the evidences of the persons recorded under Section 14 of the Central Excise Act, 1944 after issuing summons cannot be rejected on the ground that the witnesses were not called by the adjudicating authority and examined to admit their statements as evidence.

9. Further, the judgments relating to clandestine removal referred to by the learned advocate in support of their case are not applicable to the facts and circumstances of the present case. The findings in each case are arrived on the basis of evidence adduced by both sides; the allegation levelled in the case whether proved or otherwise rests on the credibility of evidence so adduced. Also, the circumstance under which the evidence is gathered and other factors of the case also impact the decision. The cardinal principle of evidence is that evidence needs to be weighed and not to be numbered. It is the quality of evidence that is relevant in establishing a case rather than the quantity of evidence produced by either side. In the present case, initially the statement furnished by the Managing Partner of the appellant Mr. Surendra Mohan Gupta on 18.06.2004 and 13.08.2004 did not reveal any material particulars about the clandestine removal of the goods. However, after being confronted with various documents retrieved from the premises Mr. Barami, Bank records and other statements, the Managing Partner had admitted to the diversion of 1316 kgs. of Red Oil to the Calicut Unit which has been used in the manufacture of 1250 kgs. of Sandalwood Oil while explaining the entries found in the private records. Thus, the said evidence of the Managing Partner cannot be ignored in absence of any other contrary evidence and valid retraction with supporting material

particulars. On the contrary, consequent to the final statement dated 12.4.2006 of Mr. Surendra Mohan Gupta, they discharged the duty and intimated on 28.4.2006 and payment of interest on 05.6.2006 i.e. before issuance of show-cause notice. In these circumstances, the Revenue has fairly established the allegation of clandestine removal of 1250 kgs. of Sandalwood Oil. Besides, the learned Commissioner has rightly rejected the claim for cum-duty value as the appellant had failed to establish that the amount collected was inclusive of duty element, as held in the following cases:

i. ***Viva Herba Pvt. Ltd. Vs. UOI*** [2023(383) ELT 423 (Bom.)]
ii. ***Amrit Agro Industries Ltd. Vs. CCE, Ghaziabad*** [2007(210) ELT 183 (SC)]

10. In the result, the confirmation of demand with interest and penalty imposed against the appellant company are upheld. However, keeping in view of the facts and circumstances of the case, the role of the Managing Partner, in the interest of justice, penalty imposed on the Managing Partner is reduced to Rs.1,00,000/- (Rupees one lakh only). The impugned Order is modified accordingly.

11. Appeals are disposed of.

(Order pronounced in Open Court 21.10.2024)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja…