CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 20828 of 2016

(Arising out of Order-in-Original No. 07-10/2016 dated 29.02.2016 passed by the Commissioner of Central Excise, Bengaluru II Commissionerate, Bengaluru.)

M/s. Margo Bio Controls Pvt. Ltd.,
Plot No. 64,
Antharasanahalli Industrial Area,
Tumkur HO, Tumkur - 572 101.

Appellant(s)

VERSUS

Commissioner of Central Excise,
Bangalore – II Commissionerate,
C.R. Buildings, P.B. No. 5400,
Queen's Road,
Bangalore - 560 001.

Respondent(s)

With

(i) Central Excise Appeal No. 20829 of 2016 (M/s. Margo Bio Controls Pvt. Ltd. vs. CCE, Bangalore.)

(Arising out of Order-in- Original No. 07-10/2016 dated 29.02.2016 passed by the Commissioner of Central Excise, Bengaluru II Commissionerate, Bengaluru.)

(ii) Central Excise Appeal No. 20830 of 2016 (M/s. Margo Bio Controls Pvt. Ltd.)

(Arising out of Order-in- Original No. 07-10/2016 dated 29.02.2016 passed by the Commissioner of Central Excise, Bengaluru II Commissionerate, Bengaluru.)

(iii) Central Excise Appeal No. 20831 of 2016 (M/s. Margo Bio Controls Pvt. Ltd.)

(Arising out of Order-in- Original No. 07-10/2016 dated 29.02.2016 passed by the Commissioner of Central Excise, Bengaluru II Commissionerate, Bengaluru.)

(iv) Central Excise Appeal No. 21116 of 2017 (M/s. P.J. Margo Private Ltd.)

(Arising out of Order-in-Original No. 08-12/2017 dated 08.05.2017 passed by the Commissioner of Central Excise, Bengaluru II Commissionerate, Bengaluru.)

(v) Central Excise Appeal No.20750 of 2016 (Commissioner of Central Excise, Bangalore vs. M/s. P. J. Margo (P) Ltd.)

(Arising out of Order-in-Original No.7-10/2016 dated 29.02.2016 passed by the Commissioner of Central Excise, Bengaluru-II Commissionerate, Bengaluru.)

(vi) Central Excise Appeal No.21246 of 2017 (Commissioner of Central Excise, Bangalore vs. M/s. P. J. Margo (P) Ltd.)

(Arising out of Order-in-Original No.8-12/2017 dated 08.05.2017 passed by the Commissioner of Central Excise, Bengaluru-II Commissionerate, Bengaluru.)

APPEARANCE:

Mr. V. Raghuraman, Senior Advocate with Mr. Raghavendra C.R. Advocate and Ms. Sneha. J.P. Chartered Accountant for the Appellant

Mr. Vikalp Jain, 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. 20231 - 20237 /2026

DATE OF HEARING: 16.01.2026
DATE OF DECISION: 16.01.2026

PER : DR. D.M. MISRA

These appeals are filed both by the assessee as well as Revenue against respective Orders-in-Original passed by Commissioner of Central Excise, Bangalore, since involve common issues are taken up together for hearing and disposal.

2. Narrating the facts of appeal No. E/21116/2017 would suffice the purpose of appreciating the issues involved which need to be addressed by this Tribunal in disposing of the appeals.

3. Briefly stated the facts the facts of the case are that the assessee M/s. P.J. Margo Pvt. Ltd. registered with Central Excise department operating from the premises at Plot No.3A, Antharasanahalli Industrial Area, Tumkur is engaged in the manufacture of pesticides viz., water soluble Neem Extracts, Neem Oil, Neem Husk, Neem De-oiled cake and Econeem falling under Chapter subheading 3808 of Central Excise Tariff Act, (CETA), 1985. M/s. Margo Bio Controls Pvt. Ltd. are also holders of Central Excise registration operating from Plot No.64, Aantharasanahalli Industrial Area, Tumkur engaged in the manufacture of Ecoderma, Ecohume, Ecohume G, Delfin, Heligard, etc. The department alleging that these units are one and the same, clubbed the clearances of both the units for the purpose of computation of turnover limit extending the benefit of SSI exemption No.7/1997 dated 01.03.1997 as amended. First show-cause notice was issued to them on 12.03.2001 demanding differential duty with proposal for penalty. The demand notice was confirmed clubbing the clearances of both the units and denying the benefit of SSI exemption Notification after exceeding the turnover limit as prescribed under the said Notification. Also, penalties have been imposed on the noticees, thereafter, show-cause notice had been issued periodically for the period from April 2001 to June 2003 which were also adjudicated and demands raised therein had been confirmed. Aggrieved by the said order, the assessee approached this Tribunal and this Tribunal by Final Order No.994-998/2003 dated 04.08.2003 remanded the matter for fresh consideration in the light of Circular No.6/1992 dated 29.05.1992. The *de novo* proceedings before the Commissioner resulted in confirmation of duty for the period from April 1997 to March 2003 and reclassification of Ecoderma and Ecohume under Chapter subheading 3808 and 3105, respectively. Aggrieved by the said order, the assessee filed appeal before the Tribunal. The Tribunal vide Final Order No.1837-1841/2005 dated 25.10.2005 set aside

the *de novo* order dated 12.10.2004. Hence, aggrieved by the said order, the department filed appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court remanded the matter for fresh consideration by the Tribunal. The Tribunal vide Final Order No.21155-21159/2016 dated 17.11.2016 upheld the clubbing of clearances of both the units for SSI benefit, however, dropped the demand setting aside the charge of suppression and invoking extended period of limitation. Aggrieved by the said order of the Tribunal, the assessee filed an appeal before the Hon'ble Supreme Court bearing Civil Appeal No.2649-2653/2017 which has been admitted and pending till date. Further, on the basis of the Tribunal's order dated 17.11.2016, the Chief Commissioner has quantified the demand for normal period, however, dropped the penalty under Section 173Q of Central Excise Rules, 1944 and Rule 25 of the Central Excise Rules, 2001. Aggrieved by the said order, the assessee filed the aforesaid appeals; whereas the Revenue has filed appeals challenging the order of the learned Chief Commissioner setting aside the penalty.

4. The learned Senior Advocate for the appellant submitted that this is the third round of litigation before this Tribunal. He has submitted that being aggrieved by the order of the Tribunal dated 17.11.2016 wherein the Tribunal has come to the conclusion that the clearance value of both the units are required to be clubbed in extending the SSI exemption Notification for the relevant period April2 1997 to March 2003, they have filed appeal before the Hon'ble Supreme Court which has been admitted in the year 2017. He submits that the Hon'ble Supreme Court is yet to decide the appeal, therefore, the matter may be kept in abeyance. He has no objection to remand the matter to the adjudicating authority.

5. Per contra, the learned Authorised Representative (AR) for the Revenue has submitted that pursuant to the remand order of the Hon'ble Supreme Court dated 16.09.2015, this Tribunal analysed the evidences placed on record and categorically held that turnover of both units need to be clubbed to determine the liability of duty after extending the benefit of SSI Notification No.7/1997-CE and No.8/2003-CE as applicable during the relevant period 1997 to March 2003. It is his contention that following the said judgment of this Tribunal, subsequent to the period April 2003 - December 2006, demand notices were also adjudicated by the learned Commissioner. In the absence of any stay of the CESTAT's order dated 17.11.2016 no error has been committed by the department in adjudicating the show-cause notice issued subsequent to the period involved in the remand order of the Hon'ble Supreme Court dated 16.09.2015. It is his contention that this Tribunal also should follow its earlier order dated 17.11.2016 and dispose of the appeals.

6. We find that the limited issue raised in all these appeals filed by the assessee as well as the department relates to admissibility of SSI exemption Notification No.7/1997-CE and No.8/2003-CE which was in force during the relevant period. The dispute has a chequered history. After confirmation of the demand for clearances in excess of the prescribed turnover limit under the relevant SSI exemption Notification, the appellant approached this Tribunal which remanded to the adjudicating authority. In the *de novo*, the demand was dropped and the classification was decided in favour of the assessee. In the second round, the Tribunal set aside the order.

7. In the *de novo* proceedings, the demand was confirmed along with classification issue raised against the assessee. Aggrieved by the said order, they filed an appeal before the Tribunal which in turn allowed the assessee's appeal and the

matter has travelled up to Supreme Court. The Hon'ble Supreme Court remanded the matter to decide two issues afresh, which the Tribunal considered and held that the clearances of both the units are liable to be clubbed in extending SSI exemption but the demand was restricted to the normal period of limitation. Aggrieved by the said order, the assessee is in appeal before the Hon'ble Supreme Court. Even though the Tribunal's order is against the assessee, since the matter is pending before the Hon'ble Supreme Court and the outcome is awaited, it is prudent to remand the matter to the adjudicating authority to wait till the judgment of the Hon'ble Supreme Court on the appeal filed against the Tribunal's final order dated 17.11.2016 is decided. Appeals filed by both assessee are allowed by way of remand to the adjudicating authority.

8. With regard to appeals filed by the Revenue, the Commissioner has rightly held that since the there is no suppression of facts and the demand has been confirmed only for normal period; and also in the absence of any such finding as contemplated under the provisions of Section 11AC of the Act, the basis requirement for invocation of Rule 173Q and Rule 25 of the Central Excise Rules is not fulfilled, hence, penalty is not imposable. In view of this, we uphold the impugned order to the extent of dropping of penalties under Rule 173Q and Rule 25 and dismiss the appeals filed by the Revenue.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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