CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH
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REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 60337 Of 2021

[Arising out of OIO No. 27/CE/Commr/Vmj/Rtk/2020-21 dated 18.03.2021 passed by the Commissioner of Central Tax (GST & CE), Rohtak]

Nutesh Singla, Parnter **: Appellant (s)**
M/s Tej Ram Dharam Paul, Village, Nathupur
District, Sonepat, Haryana

Vs

Commissioner of Central Tax
(GST & CE) Rohtak **: Respondent (s)**
2nd Floor, Pacific City Center Mall,
Near Jaat Bhawan, Delhi road, Rohtak (Haryana)

with
Excise Appeal No. 60338 Of 2021

[Arising out of OIO No. 27/CE/Commr/Vmj/Rtk/2020-21 dated 18.03.2021 passed by the Commissioner of Central Tax (GST & CE), Rohtak]

Shri Ram Gopal Yadav
Commercial Manager **: Appellant (s)**
Village-Nathupur District, Sonepat, Haryana

Vs

Commissioner of Central Tax
(GST & CE) Rohtak **: Respondent (s)**
2nd Floor, Pacific City Center Mall,
Near Jaat Bhawan, Delhi road, Rohtak (Haryana)

APPEARANCE:
Shri Ashwani Sharma, Advocate for the Appellant
Shri Narinder Singh, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No. 60698-60699/2023

Date of Hearing:07.12.2023
Date of Decision:07.12.2023

Per : S. S. GARG

These two appeals are directed against the common impugned order dated 18.03.2021 relating to imposition of penalties only;
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therefore, both the appeals are taken up together for discussion and disposal.

In the impugned order, the Ld. Commissioner has confirmed the demand of Central excise duty of Rs. 4,47,72,842/- alongwith interest and ordered for appropriation of the amount of Rs. 1,86,64,055/- deposited by the partnership firm (main appellant). Further, the Ld. Commissioner also imposed penalty of Rs. 25,00,000/- on the appellant Sh. Nutesh Singla, one of the partner in the firm and also imposed penalty of Rs. 1,00,000/- on Shri Ram Gopal Yadav, Commercial Manager.

Aggrieved by the said order, the partnership firm of M/s Tej Ram Dharm Paul preferred an appeal before the Tribunal vide Appeal No. E/60336/2021 and the Division Bench of the Tribunal after hearing the matter vide Final Order No. 60075 of 2022 dated 08.08.2022 set-aside the impugned order and the appeal of the firm was accordingly allowed with consequential relief, if any, as per law.

2. Heard the parties and perused the material on records.

3. Ld. Counsel for the appellants submits that once the appeal of the partnership firm has been allowed by the Tribunal, then the penalties imposed on the appellants as partner and as commercial manager under Rule 26 of Central Excise Rules, 2002 cannot sustain in law.

3.1 He further submits that against the decision of the Tribunal dated 08.08.2022, Revenue filed appeal before the Hon'ble Apex Court and the Hon'ble Apex Court vide its order dated 20.10.2023 disposed off bunch of Civil Appeals including the Civil Appeal No. 3596 of 2023 filed by the Revenue against the Final order No. 60075 of 2022 dated 08.08.2022 passed by the Tribunal in the case of M/s Tej Ram

Dharam Paul. The Hon'ble Apex Court dismissed the appeal of the revenue and upheld the order of the Tribunal.

4. On the other hand, the Ld. DR reiterated the findings in the impugned order.

5. After considering the submissions of both the parties and perusal of the material on record, we find that the Tribunal vide Final Order No. 60075 of 2022 dated 08.08.2022 in Appeal No. E/60036/2021 set-aside the impugned order passed by the Commissioner against the said firm.

5.1 We also find that the Revenue filed appeal before the Hon'ble Apex Court which was dismissed by the Hon'ble Apex Court vide its order dated 20.10.2023 in Civil Appeal No. 3596 of 2023 thereby upholding the decision of the Tribunal.

5.2 Since, the appeal of the firm which was the main appellant has been allowed by the Tribunal by setting aside the judgement of the Ld. Commissioner and the same was upheld by the Hon'ble Apex Court by dismissing the appeal of the revenue, hence, the imposition of penalty on the appellants under Rule 26 cannot be legally sustainable. Consequently, we set-aside the penalties imposed on the appellants by allowing both the appeals of the appellants.

(Operative part of the order pronounced in the open Court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

G.Y.