CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 52617 of 2014

[Arising out of Order-in-Appeal No. 217-218/CE/APPEAL/DLH-IV/2013 dated 06.02.2014 passed by the Commissioner (Appeals), Central Excise Delhi-IV]

M/s Auto Ignition Ltd **......Appellant**
Plot No. 17-18, Sector 6, Pant Nagar,
Rudrapur Uttrakhand 263145

VERSUS

Commissioner of Central Excise-Delhi IV **......Respondent**
Plot No. 36-37, Sector 32 Opp. Medanta
Hospital NH-IV, Gurgaon, Haryana 121001

APPEARANCE:

Ms. Krati Singh and Ms. Samiksha Uniyal, Advocates for the Appellant

Shri Aniram Meena, Authorized Representative for the Respondent

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

FINAL ORDER NO. 60516/2025

DATE OF HEARING: 30.04.2025
DATE OF DECISION: 30.04.2025

S.S.GARG:

The present appeal is directed against the impugned order dated 06.02.2014 passed by the Commissioner (Appeals), Faridabad, whereby the penalty of Rs. 10,00,000 has been imposed on the appellant under Rule 26 of the Central Excise Rules, 2002.

2. Briefly the facts of the present case are that the M/s. Super Auto Electricals Pvt. Ltd. ('Job Worker') is engaged in the manufacturing of aluminium alloy casting components falling under tariff items 84099990, 85030010 and 87081010 of the First Schedule to the Central Excise Tariff Act, 1985 ('CETA'). The appellant was availing the benefit of the Notification No. 50/2003-CE dated 10.06.2003 ('Area-based Exemption Notification'). The appellant provided inputs/partially processed goods like aluminium ingots on the strength of job work challans to the Job Worker. The Job Worker undertook the process of casting and machining on the inputs/partially processed goods on behalf of the Appellant to manufacture aluminium die cast components. After completion of the process, the Job Worker cleared the job worked goods to the Appellant. However, the Job Worker did not pay the excise duty on the said goods. An audit of the Job Worker was conducted by the Department and a show cause notice was issued by invoking the extended period proposing the demand of excise duty alongwith interest and penalty against the job worker on the ground that he is not eligible to avail the benefit of exemption from excise duty on the goods cleared to the appellant under Notification No. 214/1986 dated 25.03.1986 as the appellant was availing full exemption from excise duty under the area based exemption notification. The show cause notice was also proposed a penalty on the appellant under Rule 26 of the Central Excise Rules, 2002. After following the due process, the Department confirmed the demand proposed in the show cause notice against the appellant and the job worker vide

Order-in-Original. The Commissioner (Appeals) dismissed the appeal of the job worker as well as the appellant. Aggrieved by the impugned order, job worker filed the appeal bearing no. E/52616/2014 before CESTAT, Chandigarh and the appellant also filed appeal against the impugned order.

3. Heard both the parties and perused the record.

4. Ld. Counsel for the appellant submits that the impugned order imposing penalty of Rs. 10,00,000 on the appellant under Rule 26 of the Central Excise Rules, 2002 is not sustainable in law. She further submits that the penalty under Rule 26 of the Central Excise Rules, 2002 can only be levied on the living person, whereas in the present case the penalty under Rule 26 of the Central Excise Rules, 2002 has been imposed on the appellant which is a Limited Company. In support of her submission, she relied upon the following decisions:

- *Woodmen Industries v. CCE, Patna, 2004 (164) E.L.T. 339 (Tri. Kolkata) [affirmed in 2004 (170) E.L.T. A307 (S.C.)]*

- *M/s. Hero Cycles Limited, Hero Ecotech Ltd. (New Cycle Division) and Hero Exports v. Commissioner of Central Excise, Ludhiana, 2024 (2) TMI 11-CESTAT Chandigarh*

- *Norris Medicines Ltd and Wintac Limited v. C.C.E. & S.T. - Surat-ll, 2023 (5) TMI 383-CESTAT Ahmedabad*

- *Kakateeya Fabs (P) Ltd. v. Commissioner of Central Excise, Bhopal, 2018 (15) G.S.T.L. 350 (Tri. - Del.)*

4.1 She further submits that presence of intention to evade tax is the pre-requisite for imposition of penalty under Rule 26(1), whereas, the Department has failed to show any positive act of suppression on the part of the appellant for evasion of tax. She further submits that the main appellant who was a job worker has settled the issue of demand of duty along with interest and penalty under SVLDRS and his appeal no. E/52616/2014 filed against the impugned order has been dismissed as withdrawn by the order dated 22.01.2021 passed by this bench of the Tribunal.

4.2 She further submits that once the main assessee has settled the issue under the scheme, penalty cannot be imposed on co-assessees. For this, she relied upon the following decisions:

- *M/s Ekam International v. The Commissioner of Central Excise, Ludhiana, 2024 (1) TMI 771-CESTAT Chandigarh*
- *M/S JPFL Films Private Limited, Jalan Jee Polytex Ltd., Kavita International Agency, Kuldeep Singh, DP Singh, R Knitfab, Perfect Designer, VK Kalra, Reliance Industries Limited, Kanpur Wool Industries, Swastik Trading Co., Apex Corporation and Mansa Traders v. Commissioner of Central Excise, Ludhiana, 2023 (12) TMI 304 - CESTAT Chandigarh.*
- *Anil K Modani, Suresh A Dalvi, S.P. Dahiwade, JSW Steel Coated Products Ltd. v. Commissioner of Central Excise, Nagpur, 2024 (1) TMI 444-CESTAT Mumbai.*

- *Prakash Steelage Ltd., Dhara Engineering Works, Samruddhi Steels, Kashiparekh Bros and Aesh Steels v. C.C.E. & S. T. Bharuch, 2024 (11) TMI 468-CESTAT Ahmedabad.*
- *Shubhash Panchal v. Commissioner of Central Excise Ahmedabad-II, Gujarat, 2024 (5) TMI 1484-CESTAT Ahmedabad.*
- *Vipinbhai Kantilal Patel v. Commissioner of C.E. -Ahmedabad-II, 2024 (5) TMI 412-CESTAT Ahmedabad.*
- *Shri. Shashi Kumar CEO M/s. Diamond Display Solutions Pvt. Ltd. v. Commissioner of Central Excise Bangalore V Commissionerate, M/s. Diamond Display Solutions Pvt. Ltd. v. Commissioner of Central Excise Bangalore V Commissionerate and Shri. R.G. Venkatesh, Managing Director, M/s. Diamond Display Solutions Pvt. Ltd. v. Commissioner of Central Excise Bangalore V Commissionerate, 2025 (1) TMI 1255 CESTAT Bangalore.*
- *Shri Ravi Seswani v. Commissioner, CGST & Central Excise - Indore, MP and M/S Mayur Corporation v. Commissioner, CGST & Central Excise-Indore, MP, 2025 (1) TMI 1033-CESTAT New Delhi.*

5. On the other hand, Ld. AR reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, we find that M/s. Super Auto Electricals Pvt. Ltd. who was a Job Worker and the main party against whom the demand of duty along with interest and penalty was confirmed and the said job worker has already settled the issue of demand of duty along with interest and penalty under SVLDRS

and this Tribunal vide its order dated 22.01.2021 dismissed the appeal as withdrawn under SVLDRS.

7. Further, we find that CESTAT in various decisions cited (supra) has set aside the penalty on co-assessees when the main assessee has settled the issue under scheme but co-assessees failed to submit the required declaration.

8. By following the ratios of the above said decisions wherein consistently the imposition of penalty on co-assessees was set aside, once the main assesses has settled the issue under SVLDRS, we set aside the impugned order by allowing the appeal of the appellant, with consequential relief, if any, as per law.

(Operative part of the order pronounced in the open court.)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Kailash