CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I (E-HEARING)

Excise Appeal No. 60098 of 2021

[Arising out of Order-in-Appeal No. APPEAL-PKL-COMMR-67-2020-21 dated 15.01.2021 passed by the Commissioner of CE & ST (Appeals), Panchkula]

Punjab Fabricators **......Appellant**
(Near Reliance Petrol Pump,
Karnal Road Nissing, Karnal, Haryana- 132024)

VERSUS

Commissioner of CE & ST, Panchkula **......Respondent**
(GST Commissionerate, SCO 407-408, Sector 8,
Panchkula, Haryana - 134119)

APPEARANCE:

Present for the Appellant: Mr. Vikrant Kackria, Advocate

Present for the Respondent: Mr. Vijay Gupta, Authorized Representative

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60561/2021

DATE OF HEARING: 18.03.2021
DATE OF DECISION: 18.03.2021

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order for imposing penalty of Rs. 50,000/- for non-filing of the returns namely ER-4, ER-5, ER-6 and ER-7 for the period 2014-15.

2. The facts of the case are that during the course of audit in the year 2019, it came to the knowledge that the appellant has not filed the returns namely ER-4, ER-5, ER-6 and ER-7 for the period 2014-15, therefore, they are liable to be penalized under Rule 12(6) of the Central Excise Rules, 2002 and Rule 15 of the Cenvat Credit Rules,

2004. Initially, various penalties were imposed on the appellant by the adjudicating authority. On appeal, the penalties were reduced to Rs. 50,000/- by the ld. Commissioner (Appeals). Against the said order, the appellant is before me.

3. The ld. Counsel for the appellant submits that there is no Revenue implication in the matter, therefore, a lenient view be taken for imposing the penalty on the appellant. In support of his contention, he relied on the decisions of this Tribunal in the cases of *Kisan Sahkari Chinni Mills Ltd vs. CCE, Lucknow vide Final Order No. A/70207/2016 dated 06.11.2015; SMS International Beverages Pvt Ltd vs. CCE, Chandigarh-I vide Final Order No. A/60606/2019 dated 29.05.2019* and *Graintoch Industries Ltd vs. CCE, Aurangabad – 2014 (310) ELT 812 (Tri. Mumbai),* wherein penalties imposed on the appellant have been reduced.

4. On the other hand, the ld. A.R. submits that the case laws relied upon by the ld. Counsel are not applicable to the facts of the case. Further prayed that as the appellant has not filed the returns, therefore, they are liable to be penalized as per the rules and no leniency required to be given to the appellant.

5. Heard the parties and considered the submissions.

6. In this case, it is a fact on record that the appellant has not filed the returns namely ER-4, ER-5, ER-6 and ER-7 but on the other hand, there is no Revenue implication for the same. This is only procedural of lapse on the part of the appellant, therefore, leniencies are to be given to the appellant. In these terms, the consolidated

penalty for non-filing of the returns namely ER-4, ER-5, ER-6 and ER-7 for the period 2014-15, the penalty is reduced to Rs. 20,000/-.

7. In these terms, the appeal is disposed of.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RA_Saifi