CUSTOMS EXCISE & SERVICE TAX APPLELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No.51927 of 2019 (SM)

[Arising out of Order-in-Appeal No.113-119(SM)CE/JPR/2019 dated 26.04.2019 passed by the Commissioner (Appeals), Central Excise and Central Goods and Service Tax, Jaipur]

M/s.Brilliant Metals Pvt.Ltd. **Appellant**
A-7/1, A-Block, Jhilmil Industrial Area,
G.T. Road, Shahadara,
Delhi.

VERSUS

Commissioner of Central Excise **Respondent**
and Central Goods and Service Tax,
Division–C, Alwar, By Pass Road,
Bhiwadi.

APPEARANCE:

Ms.Reena Rawat, Advocate for the appellant.
Ms. Tamnna Alam, Authorised Representative for the respondent.

CORAM: HON'BLE SHRI ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.51610/2021

DATE OF HEARING/DECISION:25.06.2021

ANIL CHOUDHARY:

Ld. Counsel mentions that the appellant company was a co-noticee in the show cause notice, wherein the main party was M/s. M.D. Steels Pvt. Ltd. In the order-in-original dated 27.03.2018, cenvat credit was denied in the hands of the main noticee with equal amount of penalty. So far this appellant is concerned, penalty of Rs.2 lakh was imposed under Rule 26 of Central Excise Rules, 2002.

2. The appellant have filed declaration for settlement of their dispute under SVLDR-Scheme by filing the requisite Form-I. In response, the Department has issued Form-II, a copy of which is placed on record, dated 12.03.2020 and according to which, the estimated amount payable is shown as nil.

3. Ld. Counsel further draws my attention to Clause (i) of para 10 of CBIC Circular NO.1071/04/2019-CX.8 dated 27.08.2019, wherein the

Government has in terms of Sabka Vishwas **(Legacy Dispute Resolution) Scheme, 2019**, in accordance with the Finance (No.2) Act, 2019, , the scheme was notified by Circular No.4/2019 dated 21.8.2019. The Circular clarifies the features of the Scheme. Para 10 (i) is reproduced as follows:-

> "**10 *(i) Section 124(1) (b) provides that where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is 'nil', then, the entire amount of late fee or penalty will be waived. This section, inter alia, covers cases of penal action against co-noticees. In case of a show cause notice demanding duty/tax from main taxpayer and proposing penal action against co-noticees, it is clarified that the co-noticees can't avail the benefits of the scheme till such time the duty demand is not settled. Once, the main-noticee discharges the duty demand, the co-noticees can apply under this Scheme. This will also cover cases where the main noticee has settled the matter before the Settlement Commission and paid the dues and in which co-noticees were not a party to the proceedings before the Settlement Commission."***

4. Ld. Counsel further states that this matter can be disposed of in view of certificate in Form SVLDRS-II- nil tax dues under the Scheme, as settled under the Scheme.

5. Ld. DR does not dispute the contention and the clarification given by the Board.

6. Accordingly, the appeal is disposed of in terms of the settlement of the dispute between the parties under the SVLDR Scheme.

[order dictated & pronounced in open court]

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Ckp.