CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>NEW DELHI</u>

PRINCIPAL BENCH - COURT NO. II

Excise Appeal No. 51966 of 2019 (SB)

(Arising out of Order-in-Appeal No. 14/CE/DLH/2019 dated 03.04.2019 passed by the Commissioner (Appeals-1), Central Tax, Goods & Service Tax & Central Excise, Delhi.)

M/s DTMS Enterprises **Appellant**
C-522, DSIIDC,
Narela Industrial Area, Delhi

VERSUS

Commissioner of Custom Excise And Central Goods And Service Tax, Delhi North **Respondent**
Commissionerate,
Room No. 134,
C R Building,
Indraprastha Estate,
New Delhi

<u>APPEARANCE:</u>

Mr. Akash Deep, Advocate for the Appellant
Ms. Tamanna Alam, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50489 / 2022

Date of Hearing: 27.05.2022
Date of Decision: 27.05.2022

Anil Choudhary:

The appellant is a manufacturer of plastic items namely disposal glasses and plates etc., and were claiming exemption as a SSI Unit. Pursuant to investigation it appeared to revenue that the appellant is required to pay duty as they have exceeded the exemption limit. In pursuant to panchnama proceedings, finished goods, raw materials and packing materials were detained and seized. Two separate show cause notices have been issued, one for the seizure of the goods proposing confiscation and penalty. Another show cause notice was issued for payment of duty, short paid as calculated by revenue. Both were adjudicated by separate orders-in-original.

2. The learned Counsel informs that during the pendency of the appeal with respect to the dispute of duty and penalty, relating to the period 01/04/2013 to 01/03/2016, wherein the disputed tax dues were Rs. 89,22,767/-. The appellant have settled the same under SVLDR scheme and revenue have issued certificate of settlement in form no. SVLDRS-4 dated 17/02/2020. A copy of the certificate has been filed before this Tribunal and has been placed on record.

3. The present appeal is with respect to the dispute arising from the same set of transaction and investigation whereby, *vide* order-in-original dated 11/09/2018, the seized goods were ordered to be confiscated with option to redeem on payment of redemption fine of Rs. 80,000/- and further penalty was imposed under Rule 26 of Rs. 10,000/-. The appellant had carried the matter in appeal before the Commissioner (appeals), who was pleased to uphold the order-in-original and reject the appeal. Being aggrieved the appellant is before this Tribunal.

4. Learned Counsel for the appellant states that as per the SVLDR Scheme 2019, on settlement of tax dues, the penalty and

redemption fine also stand settled and accordingly prays, this appeal may be disposed of in terms of the settlement of tax dues under the scheme.

5. Learned DR does not dispute the submission on facts.

6. Having considered the rival contentions, I find that the dispute of confiscation fine and penalty in this appeal, also stand settled by the aforementioned settlement as certified by Form SVLDRS-4. Accordingly, this appeal is also disposed of in terms of settlement under the SVLDR Scheme. Appeal allowed.

(order dictated in open Court)

(Anil Choudhary)
Member (Judicial)

sb