

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

EXCISE APPEAL NO. 52312 OF 2024

[Arising out of the Order-in-Original No. 12/C. Ex./Pr. Commr./M.M.G./D.N./
2023-24 dated 31/01/2024 passed by Principal Commissioner, CGST Delhi
North, New Delhi – 110 002.]

Shri Sunil Kumar Rana,
148, Village Mukhmelpur,
Delhi – 110 036.

Appellant

VERSUS

Commissioner, CGST, Delhi North,
Central Revenue Building, I.P. Estate,
New Delhi – 110 002.

Respondent

APPEARANCE

Shri R.S. Sharma, Advocate – for the appellant.
Shri Rakesh Agarwal, Authorized Representative (DR) – for the
Department

**WITH
EXCISE APPEAL NO. 50749 OF 2025**

[Arising out of the Order-in-Original No. 12/C. Ex./Pr. Commr./M.M.G./D.N./
2023-24 dated 31/01/2024 passed by Principal Commissioner, CGST Delhi
North, New Delhi – 110 002.]

Shri Sachin Walia,
A-4, Christian Colony, Patel Chest, DU
Delhi – 110 007.

Appellant

VERSUS

Commissioner, CGST, Delhi North,
Central Revenue Building, I.P. Estate,
New Delhi – 110 002.

Respondent

APPEARANCE

Shri Kunal Choudhary and Shri Himanshu Panwar, Advocates – for the
appellant.
Shri Rakesh Agarwal, Authorized Representative (DR) – for the
Department

CORAM : **HON'BLE SHRI JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE SHRI P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50984-50985/2025

DATE OF HEARING/DECISION : 30.06.2025

JUSTICE DILIP GUPTA

Excise Appeal No. 52312 of 2024 has been filed by Sunil Kumar Rana to assail that part of the order dated 31.01.2024 passed by the Principal Commissioner that confirms penalty of Rs. 60,00,000/- upon him under the provisions of rule 17 of the Pan Masala (Capacity Determination and Collection of Duty) Rules, 2008¹ read with rule 26 of the Central Excise Rules, 2002² and section 174 of the Central Goods and Service Tax Act, 2017.

2. **Excise Appeal No. 50749 of 2025** has been filed by Sachin Walia to assail that part of the order dated 31.01.2024 passed by the Principal Commissioner that confirms penalty of Rs. 1,50,00,000/- upon him under rule 17 of 2008 Rules read with rule 26 of the 2002 Rules.

3. The relevant finding recorded by the Principal Commissioner for confirming the penalties upon the aforesaid two appellants is contained in paragraphs 6.11 of the impugned order which is reproduced below :-

"6.11 Thus, from the above discussions and findings, I agree that Shri Pankaj Aggarwal ran the illegal Gutka manufacturing unit at Mukhmelpur. Shri Sunil Rana in his capacity as owner of the premises has acted negligently and not taken due care and precaution at

1. 2008 Rules
2. 2002 Rules

the time of letting out his property to Shri Pankaj Aggarwal. Further, Shri Sachin Walia in his capacity as a property dealer has acted negligently and not taken due care and precautions while arranging for the premises to be taken on rent by Shri Pankaj Aggarwal.

These acts of commission and omission on the part of Shri Sunil Rana and Shri Sachin Walia in turn helped and gave an opportunity to Shri Pankaj Aggarwal in the establishment and operation of the above said illegal manufacturing unit of Gutkha at the address discussed above. **By doing so they have rendered themselves liable for penalty under the provisions of law/rules discussed above”.**

(emphasis supplied)

4. Rule 17 (1) of the 2008 Rules is reproduced below :-

“Rule 17. Penalty for contraventions, etc. –

(1) Subject to the provisions of section 11AC of the Act, if any manufacturer produces or removes notified goods in contravention of any provision of these rules, then all such goods shall be liable to confiscation, and **the manufacturer shall be liable to a penalty** not exceeding the duty leviable on the notified goods in respect of which aforesaid contravention has been committed”.

(emphasis supplied)

5. Rule 26 of the 2002 Rules is reproduced below :-

“Rule 26. Penalty for certain offences. –

Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or rupees ten thousand, whichever is greater”.

6. A bare perusal of rule 17 (1) of the 2008 Rules would indicate that penalty can be imposed on a manufacturer if he produces or removes notified goods in contravention of any of the provisions of the Rules. The Principal Commissioner has not recorded any finding that Sunil Kumar Rana or Sachin Walia are the manufacturers of the notified goods. In fact, what has been stated is that Sunil Kumar Rana in his capacity as owner had actually let out the premises to Pankaj Aggarwal but he acted negligently and did not take due care and precaution at the time of letting out the property. A finding has already been recorded that Sachin Walia, in his capacity as property dealer had not taken due care while taking steps for renting of the property to Pankaj Aggarwal.

7. Thus, the aforesaid acts alleged to have been done by Sunil Kumar Rana and Sachin Walia cannot form the basis for imposing penalty under rule 17 of 2008 Rules read with rule 26 of 2002 Rules. Penalty can be imposed on a manufacturer who produces or manufactures goods in contravention of the Rules.

8. Rule 26 of the 2002 Rules is also not applicable as it applies to any person who acquires possession or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation. This is not in issue in the present appeal.

9. When neither rule 17 of 2008 Rules nor rule 26 of 2002 Rules are applicable, the imposition of penalty upon the two appellants under rule 17 of 2008 Rules and rule 26 of the 2002 Rules cannot be sustained.

10. The impugned order dated 31.01.2024 passed by the Principal Commissioner confirming the imposition of penalty under rule 17 of 2008 Rules and rule 26 of 2002 Rules upon Sunil Kumar Rana and Sachin Walia is set aside and the two appeals are allowed.

(Dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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