

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 3**

EXCISE APPEAL NO. 50667 OF 2021

[Arising Out Of Order in Appeal No. 05(SM) CE/JPR/ 2021 Dated 18.01.2021 Passed By The Commissioner (Appeals), Central Excise & CGST, Jaipur]

SIDHARTH POLYSACKS PVT LTD

APPELLANT

F-1, IInd Centre, RIICO Industrial Area,
Newai, Tonk Rajasthan- 304021

Vs.

COMMISSIONER, CGST-JAIPUR I

RESPONDENT

NCR Building, Statue Circle,
C-Scheme, Jaipur, Rajasthan-302005

Appearance:

Present for the Appellant : Ms. Priyanka Goel. Advocate

Present for the Respondent: Shri S.K. Ray, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 51315 /2025

**Date of Hearing: 03/09/2025
Date of Decision: 18/09/2025**

P. ANJANI KUMAR

1. M/s Sidharth Polysacks Pvt Ltd., the appellants, are engaged in the manufactured of 'poly propylene bags (PP bags) & HDPE bags'. During the audit of the records of the appellant, Revenue observed that the appellant cleared PP bags to non-industrial consumers i.e. M/s MP state Civil Supplies Corporation Ltd. by paying duty at the rate of 12.5% instead of 15% by wrongly classifying the goods under CETH 39232900 instead of CETA 39232100 in the month of January 2016. A show cause notice dated 09.01.2019 was issued. Original adjudicating

authority confirmed the duty demand of Rs. 5, 43,963 along with interest and equal penalty. Appeal filed by the appellant was dismissed by the Commissioner (Appeals) vide impugned order dated 18.10.2021. Hence, this appeal.

2. Ms. Priyanka Goel, learned counsel for the appellants submits that the appellants purchased granules of Poly Propylene only from **M/s Reliance Industries Limited**. They have not purchased polymers of poly Ethylene. They had order only for PP bags, manufactured and supplied the same accordingly. She submits that the appellants are a registered unit and have been filing ER-1 returns regularly and were being audited at regular intervals. Extended period cannot be invoked as there is no suppression, fraud etc with intend to evade payment of duty. Moreover, the show cause notice being issued on the basis of an audit extended period cannot be invoked as held in Sunshine Steel Industries [(2023) 8 CENTAX 209 (Tri.,-Del)] which was upheld by Hon'ble Apex Court 2023 (385)ELT 826 (SC), Maruti Suzuki India Ltd [(2024) 22 CENTAX 112 (Tri.-Chandigarh)] and HNTI Ltd (2025)26 CENTAX 309 (Tri.-Mad.)]

3. Learned authorized representative for the department submits that Polypropylene is crystalline intermediate of low density polyethylene (LDPE) and High Density Polyethylene (HDPE). Both sacks and bags of polypropylene and polyethylene are classifiable under CETH 39232100. The appellant suppressed the fact of sale of PP bags to non-industrial consumer. The fact

came to light only during Audit and, therefore, extended period was correctly invoked.

4. Heard both sides and perused the records of the case. The brief issues that require our consideration are as to whether the PP bags cleared by the appellant are classified under CETH 39232100 and whether extended period cannot be invoked in the facts and circumstances of the case. The appellants claim that they have purchased only polypropylene granules from M/s Reliance Industries and they have not purchased any polyethylene compound. There was no way they could manufacture polyethylene bags. Their purchase order from M/s MP State Civil Supplies Corporation was for polypropylene bags which they manufactured and cleared. We find that other than stating that both polypropylene/ polyethylene bags are classifiable under CETH 3923100, Revenue has not adduced any evidence to show that the bags manufactured and cleared by the appellants are not polypropylene. Revenue has not got any test conducted to establish the nature of bags. Therefore, in the absence of any evidence, allegation is not substantiated.

5. Moreover, the appellant has been filing ER-1 returns regularly. Revenue could have questioned on the nature of classification or the exemption availed by the appellants. They need not have waited till the conduct of an audit. Simply because the issue was detected during the audit, it cannot be alleged that there was suppression on the part of the appellants. Having missed the bus by not conducting scrutiny of ER-1

returns, Revenue cannot take recourse to invoking extended period as held by the Bench in the case of M/s Sunshine Steel Industries (Supra).

6. In view of the same, we are of the considered opinion that the appeal succeeds on merits & limitation.

7. Accordingly, the appeal is allowed with consequential relief, if any, as per law.

[Order pronounced on **18/09/2025**]

(P. DINESHA)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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