CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. IV

EXCISE APPEAL NO. 50691 OF 2021 (SM)

[Arising out of the Order-in-Original No. JOD-EXCUS-000-COM-0024-20-21 dated 05/10/2020 passed by The Commissioner, Central Goods and Service Tax, Jodhpur.]

Shri Amit Kumar, **......Appellant**
S/o Shri Suresh Kumar Sindhi,
House No. 20, Gandhi Nagar, Magra Punjla,
Jodhpur.

Versus

The Commissioner, Central Goods and Service Tax, **....Respondent**
105-G, Road No., In front of Diesel Road,
New Industrial Area, 5, Behind AIIMS,
Jodhpur.

APPEARANCE:
None for the appellant.
Shri Kuldeep Rawat, Authorized Representative for the Department

CORAM:
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51395/2026

DATE OF HEARING/DECISION : 14.08.2026

P.V. SUBBA RAO

Shri Amit Kumar[1] filed this appeal to assail the order dated 05.10.2020 passed by the Commissioner of Central Goods and Services Tax, Jodhpur in which he confirmed demand of central excise duty of Rs. 86,196/- under section 11A (4) of the Central Excise Act, 1944[2] along with interest under section 11AA of the Act on Shri Suresh Kumar Sindhi,

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1. **the appellant**
2. **the Act**

Jodhpur and imposed an equal amount of penalty under section 11AC of the Act on him. The Commissioner also imposed penalty of Rs. 25,00,000/- on the appellant under Rule 26 of the Central Excise Rules, 2002.

2. This appeal is in respect of only the penalty of Rs. 26,00,000/- imposed on the appellant under Rule 26.

3. None appeared on behalf of the appellant. I find that nobody appeared even on the several dates it was listed before also.

4. I heard learned Authorized Representative for the Revenue who vehemently supported the impugned order. He also submitted that the appellant was the son of Shri Suresh Kumar Sindhi who was running the factory and on whom the penalty has been confirmed.

5. I find that Rule 26 of the Central Excise Rules, 2002 reads as follows :-

> **"RULE 26. Penalty for certain offences.** — (1) 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 two thousand rupees, whichever is greater.
>
> **Provided** that where any proceeding for the person liable to pay duty have been concluded under clause (a) or clause (d) of sub-section (1) of section 11AC of the Act in respect of duty, interest and penalty, all proceedings in respect of penalty against other persons, if any, in the said proceedings shall also be deemed to be concluded.

(2) Any person, who issues -

(i) an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; or

(ii) any other document or abets in making such document, on the basis of which the user of said invoice or document is likely to take or has taken any ineligible benefit under the Act or the rules made thereunder like claiming of CENVAT credit under the CENVAT Credit Rules, 2004 or refund, shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is greater".

6. As is evident, the penalty under Rule 26 can be imposed for :-

(a) For acts or omissions by individuals which render goods liable to confiscation ; and

(b) For issuing invoices without supplying goods so as to enable the recipient of such invoices to avail ineligible Cenvat credit.

7. In this case, there is no allegation of Cenvat credit or issue of invoices. There is also no order confiscating any excisable goods under Rule 25. The penalty imposed of Rs. 25,00,000/- upon the appellant under Rule 26 cannot be sustained as it is beyond the scope of Rule 26.

8. The appeal is allowed and the impugned order is set aside with consequential relief, if any, to the appellant.

(Order dictated and pronounced in open court.)

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

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