IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 12/06/2017.
DATE OF DECISION : 12/06/2017.

Excise Appeals No. 2339-2348 and 2364 of 2012

[Arising out of the Order-in-Original No. COMMISSIONER/RPR/CEX/33/2012 dated 11/04/2012 passed by The Commissioner, Customs & Central Excise, Raipur.]

M/s Shree Banke Bihari Ispat Pvt. Ltd.]
M/s Shree Balaji Ispat]
M/s Sai Ram Steel Pvt. Ltd.]
M/s Alok Ispat Pvt. Ltd.]
M/s Rajat Ispat Pvt. Ltd.]
M/s Ganga Ispat Pvt. Ltd.] Appellants
M/s Narmada Iron and Steels Pvt. Ltd.]
M/s Shri Ram Hitech Steel & Power P. Ltd.]
M/s Epic Alloys Steel Pvt. Ltd.]
M/s Zeon Steel Pvt. Ltd.]
M/s Sadguru Ispat Pvt. Ltd.]

Versus

CCE & ST, Raipur Respondent

Appearance

Shri Kartik Kurmy, Advocate – for the appellants.

Shri R.K. Mishra, Authorized Representative (DR) – for the Respondent.

CORAM :**Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 53911-53921/2017 Dated : 12/06/2017

<u>Per. Justice (Dr.) Satish Chandra</u> :-

All the appeals have been filed against the common order dated 11/04/2012. All are the co-noticees. The main co-noticee is not before the Tribunal. In the present cases, the penalty of Rs. 2,00,000/- was imposed on the each company – appellants, under Rule 26 of Central Excise Rules, 2002. Being aggrieved, the appellants have filed these present appeals. With this background, heard Shri Kartik Kurmy, learned Counsel for the appellants and Shri R.K. Mishra, learned DR for the Revenue. Shri Kartik Kurmy, the learned Counsel for the appellants contesting the penalty, has relied upon the Tribunal's decision in the case of M/s Kailash Traders vs. CCE, Raipur vide final order No. A/52349-52409 – EX (DB) of 2017 dated 09/03/2017 and referred para 3 and 4, which are reproduced below :-

> "3. After hearing both sides at length and on perusal of record, it may be mentioned that the Hon'ble Supreme Court in the case of **Commissioner vs. Woodmen Industries – 2004 (170) E.L.T. A307 (S.C.)** observed that in such type of cases, no penalty can be imposed on a corporate entity. The penalty can be imposed only on a person and not on a firm. Similar views were expressed by the Tribunal in the case of **Steel Tubes of India Limited vs. CCE, Indore – 2007 (217) E.L.T. 506 (Tri. – LB)**.
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> 4. In view of above, the legal proposition is that the penalties in case where it was levied on a firm or legal entity is not desirable. However, the penalty levied on individual or proprietorship firm can be sustained".

2. The appellants in the present appeals are companies and not individuals. Accordingly, the penalty imposed under Rule 26 on the appellants are set aside on this ground. In the result, all the appeals are allowed.

(Order dictated and pronounced in the open court.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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