CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Excise Appeal No. 52249 of 2018 [DB]

[Arising out of Order-in-Original No.RPR/EXCUS/000/COM/090-094/2017 dated 28.12.2017 passed by the Commissioner of Customs & Central Excise, Raipur]

Shri R.K. Agarwal **...Appellant**
M/s.Radha Madhav Industries Pvt. Ltd.
Village-Bodri, Bilaspur (C.G).

VERSUS

Commissioner of Customs
& Central Excise, Raipur **...Respondent**
Central Excise Bhawan, Dhamtari Road,
Raipur

APPEARANCE:

Ms. Surabhi Sinha, Advocate for the Appellant
Mr. H.C. Saini, Authorised Representative for the Respondent

Coram: HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)
HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

FINAL ORDER No. 50870/2019

DATE OF HEARING : 01/07/2019
DATE OF DECISION: 01/07/2019

BIJAY KUMAR:

The present appeal has been filed against Order in Original No.28.12.2017 pertaining in Common Order-in-Original. The details of all the parties are as under:-

Sl. No.	Name of the Assessee (M/s.)	Referred in this order as	SCN Number and date	Adjudication File Number
1.	Radha Madhav Industries Pvt. Ltd., Village Bodri, Bilaspur	Radha Madhav	C.No.V (Ch.72) 15-01/Commr/BIL/2010/ Adj./225 dated 08.01.2010	V(Ch.72) 15-01/Commr/BIL/2010/Adj.
2.	Satya Power & Ispat Pvt. Ltd., Village Gatauri, Ratanpur Road, Bilaspur	Satya Power	C.No. V (Ch.72) 15-43/Commr/BIL/2010/ Adj./1644 dated 08.03.2010	V(Ch.72) 15-43/Commr/BIL/2010/Adj.
3.	Kalindi Ispat Privat Limited, Village Belpan, Tahsil Masturi, Bilaspur	Kalindi Ispat	C.No.V (Ch.72) 15-82/Commr/BIL/2010/ Adj./ 2874 dated 26.04.2011	V (Ch.72) 15-82/Commr/BIL/2010/Adj.
4.	Phil Ispat Privat Ltd., Village Dighora, Near Bilha turn, Bilaspur	Phil Ispat	C.No. IV(6) Int/24/PIPL/ 2009-10/P/3579 dated 26.02.2010	V(Ch.72) 15-96/Commr/Prev/BIL/2010/Adj.
5.	Airan Steel & Power Pvt. Ltd., Silpahari Industrial Estate, Hardikala, Bilaspur	Airan Steel	C.No.V (Ch.72) 15-82/Commr/BIL/2010/ Adj./ 19649 dated 02.11.2010	V(Ch.72) 15-129/Commr/Prev/BIL/2010/Adj

2. The Appellant is also one of the party being Authorised Signatory of M/s. Satya Power and Ispat Pvt. Ltd. on whom penalty has been imposed. The demand itself has been set aside vide F.O. No.53264-53276 dated 13.11.2018. It has been held therein as :

> *35. Since there is no evidence of transportation of extra quantity of iron ore by either M/s. Gyan Singh or M/s. Amit Roadlines, no case of duty demand under the Finance Act, 1994 can be made out.*
>
> *36. Since duty demand itself is not sustainable, penalty on the all manufacturing units and also individual case not sustainable. We accordingly allow the Appeals in above terms.*

3. In view thereof, there is no question of imposition of penalty on the present appellant. It stands already set aside. Accordingly, we set aside the impugned order. In the result, Appeal is allowed.

[Dictated and pronounced in the open Court]

(BIJAY KUMAR)
MEMBER (TECHNICAL)

(RACHNA GUPTA)
MEMBER (JUDICIAL)

Anita