IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 709 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

M/s. Rim Zim Valley Products Private Limited **: Appellant**
12A, Jeevan Nagar, Old D.C. Road, Sonepat,
Harayana-Village-Naya Bans, Sampla, District: Rohtak,
Haryana

VERSUS

Commissioner of Central Excise **: Respondent**
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 710 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

M/s. Rim Zim Valley Products Private Limited **: Appellant**
Plot No. 38, Khatian No. 2, Zone-II,
Industrial Growth Center, Bodhjung Nagar,
Agartala – 799 008 (Tripura West)

VERSUS

Commissioner of Central Excise **: Respondent**
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 711 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

Shri Sanjay Jain, Managing Director, **: Appellant**
M/s. Rim Zim Valley Products Private Limited
Zone H 4/5, Plot No. 53-54, Suvidha Kunj, Pitampura,
New Delhi – 110 034
[C/o. M/s. Surya Vinayak Industries Ltd.
E-3, Mangolpuri Industrial Area, Phase-II, New Delhi – 110 034]

VERSUS

Commissioner of Central Excise **: Respondent**
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 712 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

M/s. Surya Vinayak Industries Limited : Appellant
Village-Naya Bans, Sampla, District: Rohtak,
Haryana

VERSUS

Commissioner of Central Excise : Respondent
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 713 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

Shri Vijay Kumar Dhar, Authorized Signatory, : Appellant
M/s. Rim Zim Valley Products Private Limited
Plot No. 38, Khatian No. 2, Zone-II,
Industrial Growth Center, Bodhjung Nagar,
Agartala – 799 008 (Tripura West)

VERSUS

Commissioner of Central Excise : Respondent
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 714 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

Shri Kamal Kant Sharma, Director, : Appellant
M/s. Rim Zim Valley Products Private Limited
Zone H 4/5, Plot No. 53-54, Suvidha Kunj, Pitampura,
New Delhi – 110 034
[C/o. M/s. Surya Vinayak Industries Ltd.
E-3, Mangolpuri Industrial Area, Phase-II, New Delhi – 110 034]

VERSUS

Commissioner of Central Excise : Respondent
Morellow Compund, M.G. Road,
Shillong – 793 001

WITH

Excise Appeal No. 715 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

Shri Sharanjit Singh, Manager, **: Appellant**
M/s. Rim Zim Valley Products Private Limited
Plot No. 38, Khatian No. 2, Zone-II,
Industrial Growth Center, Bodhjung Nagar,
Agartala – 799 008 (Tripura West)

VERSUS

Commissioner of Central Excise **: Respondent**
Morellow Compund, M.G. Road,
Shillong – 793 001

AND

Excise Appeal No. 716 of 2010

(Arising out of Order-in-Original CCE/Shillong No. 03/2010 dated 27.08.2010 passed by the Commissioner of Central Excise, Morellow Compound, M.G. Road, Shillong – 793 001)

Shri Rajiv Jain, Director, **: Appellant**
M/s. Rim Zim Valley Products Private Limited
Zone H 4/5, Plot No. 53-54, Suvidha Kunj, Pitampura,
New Delhi – 110 034
[C/o. M/s. Surya Vinayak Industries Ltd.
E-3, Mangolpuri Industrial Area, Phase-II, New Delhi – 110 034]

VERSUS

Commissioner of Central Excise **: Respondent**
Morellow Compund, M.G. Road,
Shillong – 793 001

APPEARANCE:

None for the Appellant(s)

Shri B.K. Singh, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs. 77234-77241 / 2024

DATE OF HEARING / DECISION: 05.11.2024

ORDER: [PER SHRI R. MURALIDHAR]

No one has appeared on behalf of the appellants in spite of notice. Since the issue pertains to the year 2010. It is seen from the records that adjournments have been granted to the appellants on the following dates: -

Sl. No.	Constitution of the Bench	Date of adjournment
1.	Sh. R. Muralidhar, Member (Judicial) Sh. Rajeev Tandon, Member (Technical)	07.08.2024
2.	Sh. R. Muralidhar, Member (Judicial) Sh. Rajeev Tandon, Member (Technical)	13.08.2024
3.	Sh. R. Muralidhar, Member (Judicial) Sh. Rajeev Tandon, Member (Technical)	05.11.2024 [as a last chance]

2. The matter pertains to appeals filed in the year 2010. In the interests of justice, the appeals were perused and taken up for disposal with the help of the Ld. Authorized Representative of the Revenue.

3. We find that the Adjudicating Authority, after following the principles of natural justice, has passed the following detailed order: -

> *"63. I find that the investigation has never been conducted at the back of the Noticee as most of the evidences collected and stressed upon have been sourced from various Government or Semi-Government Organizations Authorities like Income Tax, Sales Tax, Insurance Company, state and Central Forest Department, Government Laboratory, which individually and collectively brings into light the fraud played the Noticees to deceive Government Revenue. I find that the Noticees have*

established their culpable state of mind from their act of non co-operation with the investigating authority when they deliberately and purposefully have not appeared to explain their positions in spite of repeated summons issued to them. I find that massive investigation have been conducted and whatever evidences found on records have been relied upon to frame the charges in the show cause notice. I find the Noticees have deliberately and intentionally avoided to depose before the investigating authority in defiance of summons issued for the purpose and also avoided in replying to specific questions put forth in the course of investigation. It is imprudent understanding and illogical concept that whatever documents gathered in the course of investigation are required to be provided to the Noticees even if the same are not regarded as relied upon documents while framing the charges. The Noticees, time and again, kept on asking for the information collected, panchnama drawn, statement recorded and documents collected have not been provided to them. However, in none of their communication, made so far, they have ever identified or specified which particular document have not been provided to them. They have been provided with all the relied upon documents as per list appended to the Show Cause Notice. In the facts and circumstances of the case, I therefore find that the Department has not caused prejudice and has acted in a fair manner. The Noticees have been given reasonable opportunity to defend their case in the interest of natural justice. And therefore their claim for examination/cross-examination at this stage are not justified.

....

65. On merit of the case, the fact of non-receipt of raw materials in the manufacturing premise have been evidentially established in the Show Cause Notice which in turn corroborates the findings that the Noticee no.1 have not manufactured excisable goods in the factory premises. The Noticees by their act has contributed to their culpable act of concealing the basic fact of fake invoices raised by fake dealers/suppliers of sandalwood. The investigation conducted unearthed the manipulation of documents and evidences on records corroborated by the depositions of the senior personnel of the Noticee No. I established the mens rea behind availing the benefit of exemption Notification no. 32/99 CE dated 08-7-09. Fabrication and tampering of documents, misrepresentation before different Government, Semi-Government authorities coupled with the modus operandi adopted in defrauding Government exchequer clearly established the malafide intention on the part of the Noticees. The documents those were resumed and investigated upon and the results of such investigation have been incorporated in the Show Cause Notice. Reliance placed by the Noticees upon omissions/commissions committed by the suppliers and such contentions are not logical and do not condone the attitude and conduct of the Noticees. The fact that the Suppliers are non-existent have also been confirmed by the Postal Authorities when the letters, requiring their presence in the course of Personal Hearing, have been returned back with remarks in support of their non-availability at the recorded addresses. I therefore find the charges framed in the Show Cause Notice are based upon factual happenings. Evidences on records collected in the course of investigation substantiate the violation of the Central Excise Act and Rules made thereunder. I therefore find the Noticee No.1 have fraudulently availed the benefit of Notification

No.32/99-CE dated 08-07-99 and the Noticees nos. 2 to 16 have consciously and deliberately contributed in the fraudulent act, manipulation of records and thereby availment of wrong refund in utter misuse of Notification No. 32/99-CE dated 08-07-99 of the Noticee No.1. I also find that M/s Rim Zim Valley Products Pvt. Ltd. a Registered Dealer (Noticee No. 17) have issued improper invoices and fraudulently facilitated M/s. Surya Vinayak Industries Limited, (Noticee No. 18) to avail irregular Cenvat credit. I further find M/s. Surya Vinayak Industries Limited, (Noticee No. 18) have availed irregular Cenvat credit without receipt of any excisable goods mentioned in the improper invoices fraudulently issued by M/s Rim Zim Valley Products Pvt. Ltd. a Registered Dealer (Noticee No. 17). Accordingly all the Noticees have rendered themselves liable for penal action under the Central Excise Act and Rules made thereunder."

We do not see any reason to interfere with the detailed and considered findings of the Adjudicating Authority.

4. Accordingly, we dismiss the appeals.

(Dictated and pronounced in the open court)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd