IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 75829 of 2019

(Arising out of Order-in-Original No.11/COMMR/CGST&CE/HWH/Adjn/2018-19 dated 18.12.2018 passed by Commissioner of Central Tax, (GST & C. Ex.) Howrah Commissionerate.)

M/s Rashmi Ispat Limited
(P. O. Jhargram, Dist. Pachim Medinipur, 721507)

Appellant

VERSUS

Commr. of CGST & Central Excise, Howrah
(GST, M. S. Building, 15/1, Strand Road, Kolkata-700001)

Respondent

APPEARANCE:

Mr. S. P. Siddhanta, Consultant for the Appellant
Mr. P. Das, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77453/2025

Date of Hearing : 16th September 2025
Date of Decision : 16th September 2025

ORDER [PER R. MURALIDHAR]

The appellant is before the Tribunal being aggrieved by the penalty imposed under Rule 26 (2) of CER, 2002.

2. The Learned Consultant appearing on behalf of the appellant submits that the issue is no more *res integra*. This Bench in respect of the similar impugned Order had decided the issue in respect of the several appellants being agitated by the penalty imposed under Rule 26(2) of the Central Excise Rules, 2002. The Bench had held that the penalty is not imposable. He submits that since the present appeal also emanates from the same impugned order, the penalty imposed on the appellant may be set aside.

3. We find that the issue as to whether the penalty is imposable under Rule 26(2) of Central Excise Rules, 2002 was before this Bench in respect of the same impugned order in a batch petition wherein this Bench vide Final Order No. 76542-76549/2025 dated 18/06/2025 set aside the penalties holding as under:-

> *11. Admittedly, the appellants before us, namely, M/s. Rashmi Metaliks Limited, M/s. Rashmi Cement Limited, M/s. Maa Shakumbari Sponge Private Limited, M/s. Seven Star Steels Limited, M/s. Vishal Metallics Private limited, M/s. Mahakali Ispat Private Limited and M/s. Swastik Ispat Private Limited, are either Private Limited Companies or Limited Companies. These are artificial entities and not individuals. As it has been observed by way of various judicial pronouncements that penalty under Rule 26(2) of the Central Excise Rules can only be imposed on an individual / naturally living person and not on an artificial entity, the appellants being artificial entities, penalty under Rule 26(2) of the Central Excise Rules, 2002 cannot be imposed on the appellants. In view of this, we hold that no penalty can be imposed on the appellants and accordingly, the penalties imposed on the appellants before us are set aside.*

4. Following the ratio laid down in the cited Final Order, we set aside the penalty imposed on the appellant and allow the appeal.

5. The appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court.)

Sd/-	**Sd/-**
(K. Anpazhakan)	**(R. Muralidhar)**
Member (Technical)	**Member (Judicial)**

Pooja