CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Excise Appeal No. 247 of 2012

(Arising out of Order-in-Original No. 06-08/ANS/2011-12 dated 31.05.2011 passed by the Commissioner of Central Excise, Mumbai-III.)

V. Narayanan ....Appellant
Crompton Greaves Limited,
1st Floor, CG House,
Dr. Anne Besant Road,
Worli, Mumbai – 400 030

VERSUS

Commissioner of Central Excise, Mumbai - III ....Respondent
3rd & 4th Floor,
Vardaan Trade Centre,
MIDC, Wagle Industrial Estate,
Thane (West), Mumbai – 400 604

APPERANCE:

Shri Aditya Chitale, Advocate for the Appellant

Shri Amrendra Kumar Jha, Dy. Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86188 / 2022

Date of Hearing: 24.11.2022
Date of Decision: 24.11.2022

PER: DR. SUVENDU KUMAR PATI

We have heard both the parties and perused the case record.

2. As has been noticed, main Appellant M/s. Crompton Greaves Ltd. had settled the dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 and obtained Form No. SVLDRS-4 on 26.12.2019 with nil tax liability on it and accordingly in exercise of power conferred under Section 127 Clause 6 of the said

scheme, the appeal filed by main Appellant M/s. Crompton Greaves Ltd. was dismissed as deemed withdrawn by this Tribunal on 07.04.2021. The present Appellant is the General Manager, Corporate Commercial and Communication of M/s. Crompton Greaves Ltd. Learned Counsel for the Appellant submits that allegation against the present Appellant is general in nature without any direct involvement in the alleged commission of the Act that would render him liable for penalty, for which Appellant should have been absolved of its liability. Even otherwise also, after the issue has been settled under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 no further penalty can be imposed on the Appellant in the event he had preferred to be declarant under the scheme, which could not be done under compelling circumstances.

3. Learned Authorised Representative for the Respondent-Department reiterates the findings of the Commissioner and leaves the decision to the discretion of the Bench, in view of the subsequent developments namely settlement of the dispute under Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.

4. On perusal of the Order-in-Original it is noticed that negligence in general is attributed to the conduct of the present Appellant for holding a responsible position of General Manager in M/s. Crompton Greaves Ltd. and it was stated that he had not taken corrective actions to opt for provisional assessment or to pay the interest accruing on the differential duty paid after price revision and such

frequent instances clearly reflect failure of duty on the part of the General Manager namely the Appellant.

5. This being the allegations and having regard to the fact that had the present Appellant preferred to have filed a declaration under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019, he would have paid nil penalty in view of the relief available to him under Section 124(i)(b) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules 2019, we are of the considered view that even after failure on the part of the Appellant to avail the benefits of the scheme, no specific allegation against the Appellant has been substantiated so as to confirm penalty of Rupees Ten lakhs imposed on him. Hence the order.

THE ORDER

5. The appeal is allowed and the order passed by the Commissioner of Central Excise, Mumbai-III to the extent of imposing penalty of Rs.10 lakhs on the Appellant Vishwanath Narayan under Rule, 26 of the Central Excise Rules, 2002 is hereby set aside.

(Operative portion of the order pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Prasad