CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>MUMBAI</u>

REGIONAL BENCH

Excise Tax Appeal No. 1612 of 2012

(Arising out of Order-in-Appeal No. BR(112-113)TH-I/2012 dated 16.08.2012 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone-I.)

Mr. Dinesh Kanoria ....Appellant
Director of M/s Kanoria Chembond Pvt. Ltd.
906, Unique Tower, Off. S. V. Road,
Goregaon (W), Mumbai – 400 062.

VERSUS

Commissioner of Central Excise, Thane -I ....Respondent
4th Floor, Navprabhat Chambers,
Ranade Road, Dadar (West),
Mumbai - 400 028.

<u>APPERANCE:</u>

Shri Archit Agarwal, Chartered Accountant 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/86259 / 2022

Date of Hearing: 20.12.2022
Date of Decision: 20.12.2022

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. Kanoria Chembond Pvt. Ltd. had settled the dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 and obtained Form No. SVLDRS-4 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. Kanoria Chembond Pvt. Ltd. was dismissed as deemed withdrawn by this Tribunal. The present Appellant is the Director of M/s Kanoria Chembond Pvt. Ltd.

3. 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 upon payment of the required money no further penalty can be imposed on the Appellant but to the application filed by the present Appellant, Respondent-Department has issued Form No. SVLDRS-3 asking for payment of redemption fine which it had inadvently missed out to impose on the main Appellant before settlement of its case, which is otherwise also not imposable under the scheme in view of the judgment of the Hon'ble High Court of Gujrat in the case of *Messrs Synpol Products Pvt. Ltd. Vs. Union of India reported in 2020 (9) TMI 257-Gujrat High Court*, that has been affirmed by the Hon'ble Supreme Court by way of dismissal of Special Leave Petition.

4. 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 mainly settlement of the dispute under Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.

5. On perusal of the Order-in-Original it is noticed that negligence in general is attributed to the conduct of the present Appellant. This being the allegations and having regard to the fact that the present Appellant's declaration under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 having been given a lawful consideration, 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 in its totality in view of Board Circular No. 1071/4/2019-CX.8 dated 27.08.2019 and consistent decisions of this Tribunal, two of which are cited by the learned Counsel in his written submission *[M/s. P. B. Vyas 2021 (378) ELT 177 (Tri. - Mumbai), M/s. Exotica Housing Pvt. Ltd. Final Order No. 50350/2020 dated 17.02.2020],* we allow the appeal and set aside the order of penalty imposed by the Commissioner (Appeals) in respect of the present Appellant.

(Operative portion of the order pronounce in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Sujeet