CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

EXCISE APPEAL NO: 89503 OF 2013

[Arising out of Order-in-Original No: Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Shell India Markets Pvt Ltd
Lubricating Oil Blending Plant T-5 MIDC Taloja
Raigad - 410 208 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89538 OF 2013

[Arising out of Order-in-Original No: Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Standard Greases & Specialities Pvt Ltd
Plot No.C-60 MIDC, Turbhe Navi Mumbai - 400 703 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89539 OF 2013

[Arising out of Order-in-Original No: Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Atlantic Lubricants & Specialties Pvt Ltd
30 Ketan Apartments 233 RB Mehta Marg
Ghatkopar-East-Mumbai - 400 077 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89540 OF 2013

[Arising out of Order-in-Original No: Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Petronas Marketing -I- Pvt. Ltd.
349 Business Point, 204-205 Western Express Highway, Andheri (E), Mumbai - 400 069 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89551 OF 2013

[Arising out of Order-in-Original No: Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Reliance Petro Marketing Ltd
Reliiance Corporate Park Bldg.No.5 'C 'Wing, 2nd Floor Ghansoli, Navi Mumbai - 400 701 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89832 OF 2013

[Arising out of Order-in-Original No: Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

D A Stuart India Pvt Ltd
502-503 Montreal Business Centre Baner Pune - 411045 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 89833 OF 2013

[Arising out of Order-in-Original No: Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

D A Stuart India Pvt Ltd
502-503 Montreal Business Centre Baner Pune - 411045 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 85577 OF 2014

[Arising out of Order-in-Original No: Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Shell India Markets Pvt Ltd
Lubricating Oil Blending Plant T-5 MIDC Taloja
Raigad - 410 208 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

WITH

EXCISE APPEAL NO: 85581 OF 2014

[Arising out of Order-in-Original No: Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Reliance Petro Marketing Ltd

Reliiance Corporate Park Bldg.No.5 'C 'Wing, 2nd Floor
Ghansoli, Navi Mumbai - 400 701 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

AND

EXCISE APPEAL NO: 85694 OF 2014

[Arising out of Order-in-Original No: Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013 passed by the Commissioner of Central Excise & Customs, Belapur.]

Standard Greases & Specialities Pvt Ltd
Plot No.C-60 MIDC, Turbhe Navi Mumbai - 400 703 … ***Appellant***

versus

Commissioner of Central Excise
CGO Complex, CBD Belapur, Navi Mumbai - 400614 ***…Respondent***

APPEARANCE:

Shri Samantak Chakraborty, Shri Mihir Mehta, Shri Mohit Rawal, Shri DH Nadkarni, Shri Ambarish Pandey, Shri S Narayanan, Advocates for the appellants

Ms Prikriti Nigam, Joint Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85104-85113/2026

DATE OF HEARING: 07/08/2025
DATE OF DECISION: 23/01/2026

PER: C J MATHEW

The fine issue in this dispute, brought before us by the two categories of appellants against two sets of orders of Commissioner of Central Excise & Customs, Belapur, is also a crisis of existence. On the one hand is an, indubitably success, business model for manufacture of a niche product in which quality and precision of very high order is of essence. On the other is one silo in the larger scheme of tax levy that has ensconced a particularity, and as an afterthought, at that, in the scheme of valuation for computation of levy that the adjudicators opined as having been skirted with deliberate intent. And on that rests the outcome in the orders of Commissioner of Central Excise & Customs, Belapur impugned here.

2. The resolution of the dispute has its locus in the fitment adopted by the adjudicating authority that the cavil of appellants portray as emanating from conjecture and not facts. Briefly, M/s Standard Greases & Specialities Pvt Ltd manufactures ‘lubricants’ for automotives and, in particular, ‘engine oil’ in accordance with requirements of the other appellants; products emerging from calibrated mixing of ‘additives’ to ‘base mineral oil’ and the ‘additives’ are procured from suppliers acknowledged as fitted for their offering. Considering the sophistication and fine tuning of automobiles for markets as well as regulatory standards, the recipe for these products are not serendipitous output but the fruit of high investment research. Owing to the exacting parameters, the customers, also lined up here for their fair share of

detriment as beneficiary of the 'scam', as the adjudicating authority has characterized it, provide formulation, technical inputs, trademarks and copyrights that are to be complied with at peril of rejection of consignment. So far so good, but clearance of impugned goods, by discharge of duty liability at rates, not in dispute, applied to assessable value at actual transaction price - aggregating cost of inputs, processing cost and specified add-on towards profit - that is, came under the scanner of the tax administrator. It is the case of the adjudicating authority that, notwithstanding the model projecting the 'manufacturer' and 'oil marketing companies' as independent principals, the contracted undertaking has all the hallmarks inviting valuation incorporated in Central Excise (Determination of Price of Excisable Goods) Rules, 2000 after its coming into force and specially designed after deep study and considered deliberations having preceded the design. The design itself is not new and nor the category. The quantum of tax leviable on 'job workers' that, for some reason, is bugbear, and a genetic distaste, stemming from dispute in Ujagar Prints that attained closure with that decision[1] of the Hon'ble Supreme Court. We are The adjudicating authority has not been particularly coy in liberally sprinkling references to that decision in the impugned order.

3. The second[2] order fastened differential duty liability of ₹

[1] [Ujagar Prints etc v. Union of India [1988 (38) ELT 535 (SC)]
[2] [order-in-original no. Belapur/111/Bel-II/F-I/COMMR/KA/2013-14 dated 31st October 2013]

1,19,23,310 on M/s Standard Greases & Specialities Pvt Ltd under section 11A of Central Excise Act, 1944, along with interest as applicable under section 11AA of Central Excise Act, 1944, besides imposing penalty of ₹ 30,00,000 under rule 25 of Central Excise Rules, 2002 while imposing penalties of ₹ 1,00,000 on M/s Reliance Petro Marketing Company, ₹ 7,00,000 on M/s Petronas Marketing (India) Pvt Ltd, ₹ 2,50,000 on M/s Shell India Markets Pvt Ltd (erstwhile M/s Bharat Shell), ₹ 60,000 on M/s DA Stuart India P Ltd and ₹ 10,000 on M/s Atlantic Lubricants and Specialities P Ltd under rule 26 of Central Excise Rules, 2002.

4. In the earlier[3] order, the adjudication concluded with fastening differential duty liability of ₹ 9,07,83,384 on M/s Standard Greases & Specialities Pvt Ltd under section 11A of Central Excise Act, 1944, along with interest as applicable under section 11AA of Central Excise Act, 1944 while imposing penalties of ₹ 50,00,000 on M/s Reliance Petro Marketing Company, ₹ 10,00,000 on M/s Petronas Marketing (India) Pvt Ltd, ₹ 50,00,000 on M/s Shell India Markets Pvt Ltd (erstwhile M/s Bharat Shell), ₹ 25,00,000 on M/s DA Stuart India P Ltd and ₹ 2,50,000 on M/s Atlantic Lubricants and Specialities P Ltd under rule 26 of Central Excise Rules, 2002.

5. The dispute is about rejection of adopted assessable value and

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[3] [order-in-original no. Belapur/36/BEL-II/R-I/COMMR/KA/ 2013-14 dated 23rd August 2013]

taking to recourse to

> *'3. The value of any excisable goods shall, for the purposes of clause (b) of sub-section (1) of section 4 of the Act, be determined in accordance with these rules.*
>
> *xxxx*
>
> *10A. Where the excisable goods are produced or manufactured by a job-worker, on behalf a person (hereinafter referred to as principal manufacturer, then, -*
>
> *(i) …*
>
> *(ii) in a case where the goods are not sold by the principal manufacturer at the time of removal of the goods from the factory of the job-worker, but are transferred to some other place from where the goods are to be sold after their clearance from the factory of the job-worker and where the principal manufacturer and buyer of the goods are not related and the price as the sole consideration for sale, the value of the excisable goods shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of said goods from the factory of job-worker;*
>
> *(iii)…*
>
> *Provided that the cost of transportation, if any, from the premises, wherefrom the goods are sold, to the place of delivery shall not be included in the value of the excisable goods.*
>
> *Explanation: For the purposes of this rule, job-worker means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer, from any inputs or*

goods supplied by the said principal or by any other person authorized by him.'

incorporated[4] in Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. There is no reference to the decision in *re Ujagar Prints* in the incorporation nor do the alternatives therein replicate the basis of levy enunciated by the Hon'ble Supreme Court in *Ujagar Prints v. Union of India [1989 (39) ELT 493 (SC)]*, in response to application for clarification of the judgement of the Constitution *supra*, which set out the formula for addition of manufacturing cost and manufacturing profit to the cost of materials as assessable value in the hands of job-worker.

6. The context of that judgement is significant. The dispute arose on the dutiability in the hands of the 'processors', disclaiming, by reason of not producing excisable goods enumerated in Schedule to Central Excises and Salt Act, 1944, 'manufacture' as their activity, absence of coverage by Central Excises and Salt Act, 1944 even as the 'principal manufacturer', lacking physical facilities to undertake transformation of 'grey cloth' that were supplied to processing houses to that end. The rudimentary scheme of taxation had evolved by then to encompass all and every kind of transformation within the structure of Schedule to Central Excise Tariff Act, 1985 mirroring the Harmonized Commodity Description and Coding System of the then Customs

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[4] [notification no. 9/2007-CE (NT) dated 1st March 2007]

Cooperation Council (CCN); fitment within ‘manufacture’ in section 2 for leviability to duties of central excise under section 3 of Central Excises and Salt Act, 1944 was no longer a jump between two footstools. The decision in re Ujagar was not of contemporary applicability even as it rendered and the resolution by the Constitution Bench ended pending disputes. The clarification in the second decision *re Ujagar Prints* was necessitated by the conceptual underbelly of Central Excise (Valuation) Rules, 1975 with ‘wholesale cash price’ as its centrality not providing an answer to practicality of assessing ‘goods’ now held as excisable. With ‘normal price’ having been substituted as the central principle in section 4 of Central Excise Act, 1944 by amendment[5] of 1973, the outliers therein had to adjusted by suitable design. The decision in *re Ujagar Prints* was translated subsequently into the valuation scheme and it was no longer open to interpretation by tax authorities. Selective genuflection before judicial determination is no authority for validation of adjudicatory determination. More so, as assessable value has since transited to ‘transaction value’ and the relied upon alternative in Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 is, in itself, an outlier that is entirely only of contextual significance; suffice it so, the application of rule 10A therein without ascertaining contextual significance of the incorporation by mere ascertainment of

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[5] [Central Excises and Salt (Amendment) Act, 1973 (Act XXII of 1973]

'contract' – a relic of rule 173C of Central Excise Rules, 1944 is not appropriate dispatch of adjudicatory responsibility.

7. Learned Counsel and Learned Authorized Representative have made elaborate submissions but circumscribed within the findings in the impugned orders. Learned Counsel placed reliance on the precedent in the decision of the Tribunal in *Nirmal R Ruparel v. Commissioner of Central Excise, Vapi [2014 (304) ELT 711 (Tri-Ahmd)]*. Learned Authorised Representative drew our attention to the judgement of Hon'ble High Court of Bombay in *Hyva (India) Pvt Ltd v. Union of India [2015 (327) ELT 41 (Bom)]* disposing off challenge to *vires* of the amendment to Central Excise (Determination of Price of Excisable Goods) Rules, 2000.

8. It is settled law that a provision in the valuation scheme does not determine taxability; section 3 of Central Excise Act, 1944 intends levy of duty on 'goods' upon 'manufacture' chargeable at the time of clearance, and, by default, on the sale price, from the 'manufacturer'; the valuation scheme, and only in the event of absence of 'transaction value' as set out in section 4 of Central Excise Act, 1944, offers alternative modes of determining 'assessable value' towards that end. In the impugned dispute, duty has been discharged by M/s Standard Greases & Specialities Pvt Ltd. The differential duty liability is fastened on M/s Standard Greases & Specialities Pvt Ltd. Excise duty is levied

only on 'manufacture' and both sides to the dispute are under no illusion that M/s Standard Greases & Specialities Pvt Ltd is not liable to duties under Central Excise Act, 1944 on the goods 'manufactured' by them. It is clear from

> *'(f) .... and the word "manufacturer" shall be construed accordingly and shall include not only the person who employed hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;'*

in section 2 of Central Excise Act, 1944 that, in every which way, M/s Standard Greases & Specialities Pvt is the manufacturer of the excisable goods.

9. The impugned Rules stem from section 4 of Central Excise Act, 1944, and applying to 'excisable goods' chargeable to 'duty of excise' with reference to value, refers to good sold by the 'assessee' and as the expression has been enlarged as

> *'(a)....means the person who is liable to pay the duty of excise under this Act and includes his agent'*

in section 4(3) of Central Excise Act, 1944, M/s Standard Greases & Specialities Pvt Ltd is 'assessee' and so, as far as assessment, subject to

> *'(a) in case where the goods are sold by the assesse, for delivery at the time and place of removal, the assesse and the*

buyer of the goods are not related and the price is the sole consideration for sale, be the transaction value;

(b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed.'

of section 4 of Central Excise Act, 1944 is concerned, recourse is to be had to the Rules only upon determining that the assessee had not had sold goods to the buyer in accordance with the several qualifications that give colour as 'transaction value' to the sale price. That is patently absent in the impugned order despite which and, by direct resort to rule 10A of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, the other appellants were assigned the role of 'principal manufacturer' which, even if determinable laterally despite absence of definition, is not permissible without finding on propriety of discard of section 4(1)(a) of Central Excise Act, 1944.

10. M/s Standard Greases & Specialities Pvt Ltd, despite affirmation as 'manufacturer' and 'assessee' has been relegated to 'job worker' and the other appellants elevated as 'principal manufacturer' in the impugned order. 'Job worker' has been defined, and for the first time, in Central Excise Valuation (Determination of Value of Excisable Goods) Rules, 2000 but not for the purposes of Central Excise Act, 1944 or even across the Rules themselves. However, 'job work' is not new to central excise law and, even in applicability of the new definition, it would be natural to construe the activity of M/s Standard

Greases & Specialities Pvt Ltd as ‘job work’ for all purposes including notification no. 21/86-CE dated 25th March 1986.

11. The said notification exempts ‘job work’ from duties of excise subject to obligation undertaken by supplier of raw materials or semi-finished goods for discharge of duties on the final product. Thus, ‘job work’ is tantamount to manufacture not by the ‘job worker’ but by supplier of raw materials and semi-finished goods, who is much the same as the entity referred to in the decision in *re Hyva (India) Pvt Ltd*; consequently, except when the ‘principal’ undertakes to be the assesse, the one who manufactures is not a job-worker but the ‘manufacturer’ liable to duty and on value to be ascertained under section 4 of Central Excise Act, 1944. This is an aspect of law that the adjudicating has ignored even as M/s Standard Greases & Specialities Pvt Ltd was confirmed as liable to duty.

12. Rule 10A of Central Excise Act, 1944 provides for two alternatives and, in both, it is ‘principal manufacturer’ who sells the excisable goods either from the place of clearance or from a place other than place of clearance with different implications for assessable value. The recourse, in the absence of either of the alternatives, is to revert to the most apt of the preceding rules. It is on record that M/s Standard Greases & Specialities Pvt Ltd has sold goods manufacture by them to the other appellants and not by the appellants to other buyers. Even if

the other appellants did sell to buyers in further transactions, the consideration thereof is irrelevant to Central Excise Act, 1944 except if goods are not sold by M/s Standard Greases & Specialities Pvt Ltd. We are unable to fathom this leap for recourse to rule 10A of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 without the pre-requisite of finding that M/s Standard Greases & Specialities Pvt Ltd had not sold the goods.

13. We only find presumption that 'additives' had been supplied to M/s Standard Greases & Specialities Pvt Ltd. Inherent to supply is the lack of sale and, impliedly, that the other appellants had had the supply effected on their behalf and that cost was also borne by the other appellants. There is no finding on this significant aspect of labelling M/s Standard Greases & Specialities Pvt as 'job worker' for other appellants merely from insistence of the latter that 'additives' be procured only from specified source. That is a presumptive fastening without ascertainment of scope of 'supplied' in the said Explanation below rule 10A of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

14. These glaring deficiencies in adjudication undermine the very foundations of the conclusion that M/s Standard Greases & Specialities Pvt Ltd had not discharged obligated duty liability and that the other appellants rendered themselves liable to penalty under rule 26 of

Central Excise Rules, 2000. That want needs rectification to the extent that the show cause notice may allow. To enable that, we set aside the impugned order and restore the notice for fresh adjudication determining the several aspects enumerated *supra*.

15. Appeal allowed by way of remand.

(Order pronounced in the open court on 23/01/2026)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*