

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85219 of 2017

[Arising out of Order-in-Appeal No. GOA-EXCUS-00-APP-221 to 232-2016-17 dated 18.11.2016 passed by the Commissioner (Appeals), Pune Appeal-II Cx. (At Goa)]

Commissioner of Central Excise & Service Tax, Goa Appellant
ICE House, E.D.C. Complex, Patto Plaza,
Panaji, Goa- 403 001.

Versus

M/s Jayashri Polymers
Plot No. 45, Pilerne Industrial Estate,
Pilerne, Bardez, Goa

.... Respondent

Appearance:

Shri Xavier Mascarenhas, Authorized Representative for the Appellant
None for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87020/2025

Date of Hearing: 14.11.2025

Date of Decision: 14.11.2025

Per: S.K. MOHANTY

Feeling aggrieved with the Order-in-Appeal No. GOA-EXCUS-000-APP-221 to 232-2016-17 dated 18.11.2016 (hereinafter, for short, referred to as "the impugned order"), passed by the learned Commissioner (Appeals), Pune Appeal-II Cx., Goa, Revenue has filed this appeal before the Tribunal.

2.1 The background facts of the case, leading to this appeal, are summarised herein below:

2.2 The respondents are engaged *inter alia*, in the manufacture of "Bus Seats", falling under Tariff Item No. 9401 2020 of the Schedule to the Central Excise Tariff Act, 1985. During the disputed period, they had availed the benefit of CENVAT credit in respect of central excise duty paid on inputs/capital goods and service tax paid on the input services, in terms of Rule 3 of CENVAT Credit Rules, 2004. As a manufacturer of excisable goods, the respondents are duly registered with the Central Excise department and also complied with various provisions contained in the statute, including payment of appropriate duty on removal of the said final products, out of their factory premises.

2.3 In this case, the Government of Goa had framed a Scheme, known as "*Goa Sales Tax Deferment-cum-Net Present Value Compulsory Payment Scheme, 2005*" (for short referred to as "Goa VAT NPV"), as a part of its investment promotion and industrialization in the State of Goa. The State government had framed such an industrial policy by providing benefits or concessions in the form of tax exemption for a period of 15 years, operative during 01.07.1983 to 31.03.2000, reckoned from the date of its first sale of commercial production under Entry 68 of the Second Schedule of the Goa VAT/Sales tax law. Such exemption was periodically modified as per the policy in force in the State of Goa and this tax waiver for a limited period created a large contingent liability on the part of the industry to pay such accumulated tax liability after the tax holiday period. According to the Goa ST NPV scheme, 2005, upon introduction of VAT w.e.f. 01.04.2005, the balance un-expired period of the aforesaid tax exemption for eligible manufacturing units were given the option to convert their liability into Net Present Value of such accumulated future payments. In other words, the eligible assessee can collect Sales tax/VAT/CST from its purchasers and pay the same to the Government of Goa on the expiry of a deferred period or were given an option to pay the Net Present Value of such deferred payment i.e., 25% of the sales amount prior hand as the same is being collected and the balance 75% of the amount were allowed to be retained by the eligible unit. The appellants herein were one of the eligible units and granted the benefits of Goa VAT NPV scheme, 2005.

2.4 The jurisdictional Central Excise Commissionerate had interpreted that the difference between actual sales tax collected by the appellants

from their customers and the payment made towards Sales tax/VAT/CST at NPV i.e., the net gain component was in fact an additional consideration for the goods sold and therefore the same was liable to be included in the assessable value for the purpose of determination of Central Excise Duty, under the provisions of Section 4 of the Central Excise Act, 1944 read with Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. On the basis of such understanding, show cause proceedings were initiated by the department, seeking for recovery of the Central Excise duty along with interest and also proposed for imposition of penalty on the appellants. The show cause notices (SCN) issued in this regard were adjudicated upon by the learned Additional Commissioner of Central Excise vide the adjudication order dated 19.05.2016, wherein the proposals made in the SCNs were confirmed. On appeal against the said adjudication order, the learned Commissioner (Appeals) vide the impugned order dated 18.11.2016 has set aside the adjudication order and allowed the appeal filed by the respondents. Feeling aggrieved with the impugned order, Revenue has filed this appeal before the Tribunal.

3. Heard both sides and perused the case records.

4. We find that the issue arising out of the present dispute, whether retention of sales tax incentives should be considered as additional consideration for the purpose of levy of Central Excise duty, is no more *res integra*, in view of the judgements relied upon by the appellants in the cases of *Commissioner of Central Excise, Raigad Vs. Uttam Galva Steels Ltd.* – 2016 (331) E.L.T. 261 (Tri.-Mumbai); *PGP Glass Private Ltd., Vs. CCE & ST, Vadodara* – 2023 (7) TMI 659 (CESTAT Ahmedabad); *Rational Engineers Pvt. Ltd. Vs. Commissioner of Central Excise, Thane-I* – 2023 (11) TMI 363 – CESTAT Mumbai; and *Mahindra Steel Service Centre Ltd., Vs. Principal Commissioner of CGST & Central Excise, Bhopal* – (2024) 17 Centax 241 (Tri. Del.). The issue decided in those cases was to the effect that incentives/subsidy of VAT/Sales Tax refunded by the State Government at a percentage of the tax paid by the assessee, under the *NPV scheme*, would not be includable in the assessable value for the purpose of payment of Central Excise duty thereon. Further, we also find that in the case of *Mahindra Steel Service Centre Ltd.* (supra), the Civil Appeal filed by Revenue was dismissed by the Hon'ble Supreme Court,

reported in (2024) 17 Centax 242 (S.C.). In view of the settled position of law on the subject issue, we do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals).

5. Therefore, the impugned order sustains and thus, the appeal filed by the Revenue is dismissed.

(Operative part of the order pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha