CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH
COURT NO.1

Service Tax Miscellaneous Application No. 87082 of 2025
in
Service Tax Appeal No. 87139 of 2016

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-202-16-17 dated 08.06.2016 passed by the Commissioner of Service Tax-II (Appeals), Mumbai)

Apcotex Industries Ltd. **Appellant**
Plot No.3/1, MIDC Indl. Area,
Taloja, Raigad 410 208.

Versus

Commissioner of CGST & CX, Raigad **Respondent**
4th Floor, Kendriya Utpad Shulk Bhawan,
Plot No.1, Sector 17, Khandeshwar,
Panvel, Raigad 410 206.

Appearance:

Shri Ajay Telasia, C.A., for the Appellants
Shri SBP Sinha, Authorised Representative for the Respondent

CORAM:

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

Date of Hearing: 29.01.2026
Date of Decision: 29.01.2026

FINAL ORDER No. 85271/2026

PER: S.K. MOHANTY

Applicant-appellant has filed the miscellaneous application, seeking for change of name of the respondent in the cause title to the appeal filed before the Tribunal. The application is considered and accordingly the respondent's name in the cause title is amended to read as "*Commissioner of CGST & CX, Raigad*" having address at 4th Floor, Kendriya Utpad Shulk Bhawan, Plot No.1, Sector 17, Khandeshwar, Panvel, Raigad 410 206. Accordingly, the miscellaneous application is allowed.

2. Heard both sides and examined the case records.

3. Feeling aggrieved with the impugned order dated 08.06.2016 passed by the Commissioner (Appeals), Service Tax-II, Mumbai, the appellant has preferred this appeal before the Tribunal.

4. On reading of the said impugned order dated 08.06.2016, we find from paragraph 3 recorded therein that the appellant had accepted their liability for payment of service tax, which was confirmed in the adjudication order dated 28.03.2012. Further, at paragraph 6 in the impugned order, the learned Commissioner (Appeals) has recorded that the appellant had not contested the demand confirmed in the adjudication order with regard to reimbursable expenses on R&D cess, TDS amount and business auxiliary service (sales commission). Since the appellant did not challenge the amount of service tax confirmed in the adjudication order, the stand taken before the Tribunal cannot be considered as proper inasmuch as it is the impugned order, which has been challenged by way of filing appeal before the Tribunal. Furthermore, with regard to confirmation of the penalty on the appellant, the learned Commissioner (Appeals) has adequately discussed the issue *vis-à-vis* the provisions contained in the statute, empowering the authority to waive the penalty amount. Upon analysis of the factual matrix, he has held that the discretion provided under Section 80 of the Finance Act, 1994 cannot be invoked for waiver of the penalty amount. On careful reading of the findings recorded in the impugned order, we are in agreement that the penalty imposed on the appellant in the adjudication order cannot be disturbed.

5. Therefore, we do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals). Accordingly, the appeal filed by the appellant is dismissed.

(Order dictated in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

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