CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85080 of 2017

[Arising out of Order-in-Original No. 09/SFA/PC/M-II/2016-17 dated 24.10.2016 passed by the Commissioner of Central Excise, Mumbai-II Commissionerate]

Godrej & Boyce Mfg. Co. Ltd. **.... Appellant**
Plant 11, Corporate Accounts,
Pirojshanagar, Vikhroli,
Mumbai 400 079.

Versus

Commissioner of Central Excise, Mumbai-II **.... Respondent**
9th Floor, Piramal Chambers, Jijibhoy Lane,
Lalbaug, Parel, Mumbai 400 012.

APPEARANCE:

Shri Makarand Joshi with Shri Prathmesh Chavan, Advocates for the Appellant

Shri A.K. Srivastava, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 85497/2026

Date of Hearing: 02.03.2026
Date of Decision: 02.03.2026

PER: S.K. MOHANTY

Heard both sides and examined the case records.

2. The issue involved in the present dispute for consideration by the Tribunal is, whether the amount of duty saved by the appellants, while removing the inputs/capital goods on the basis of invalidation letters issued by their customers, would constitute additional consideration for the purpose of inclusion of such value in the transaction value, for payment of central excise duty in terms of Section 4 of the Central Excise Act, 1944. Another issue raised by the appellants is with regard to the limitation aspect for issuance of the Show Cause Notice (SCN) beyond the normal period prescribed under Section 11A of the Act of 1944.

3. With regard to the merits of the case, i.e. the duty saved on account of invalidation letter, whether should be considered as additional consideration for the purpose of levy of central excise duty thereon, is no more *res integra,* in view of the judgment of the Hon'ble Supreme Court delivered in the case of *CCE vs. IFGL Refractories Ltd.* [2005 (186) ELT 529 (SC)] and *CCE vs. Indorama Synthetics (I) Ltd.* [323) ELT 20 (SC)]. Thus, in view of the settled position of law, the appellants' do not have a case on merits. The appellants have also contended that on merits, they are not pursuing their appeal. However, the appellants have stated that the show cause proceedings initiated by the department by invoking the extended period of limitation cannot be sustained, in absence of fulfillment of the ingredients itemized in sub-section (4) of Section 11A ibid i.e., fraud, collusion, willful misstatement or suppression of facts, with intent to evade payment of central excise duty.

4. Since the appellants have contended that on merits, the issue dealt in their case has been decided by the Hon'ble Supreme Court negatively, we hold that on merits they have no case to succeed. However, on perusal of the documents available in the case file, we find that the supply of goods by the appellants under advance authorization and claiming of the terminal excise duty benefit was well within the knowledge of the department, way back in 2013. Since the SCN was issued beyond the normal period of one year, the same, in our considered view, is barred by limitation of time. Further, we also find that pursuant to the remand direction contained in the judgment of the Hon'ble Supreme Court in the case of *IFGL Refractories Ltd.* (supra), the Tribunal has dealt with the issue of limitation and has allowed the appeal in favour of the said appellant, holding as under:-

> *" ………… To conclude that when, in the present case the entire Excise Duty, paid by the Appellant, was refundable to them under Para 122(c) of the Import Policy, in such revenue neutral situations, the invocation of longer period of limitation of 5 years laid down in the proviso to Section 11A(1) will not be called for. In support of this submission, reliance is well being placed by the ld. Advocate on the following judgments of the Hon'ble Supreme Court:*
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> *(a) 2005 (179) E.L.T. 21 (S.C.) = CCE v. Mahindra & Mahindra Ltd.*
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> *(b) 2005 (179) E.L.T. 276 (S.C.) = CCE v. Narmada Chematur Pharmaceuticals Ltd.*
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> *3.2 For the reasons aforesaid it is be held that in the present case there was no scope to invoke the longer period of limitation laid down in the proviso to Section 11A(1) and consequently the entire demand is time-barred."*

5. In view of the fact that the issue with regard to limitation has been dealt with by the Coordinate Bench of the Tribunal in the case of *IFGL* (supra), we are of the view that the present demands confirmed on the appellants by invoking extended period of limitation under Section 11A *ibid* cannot be sustained. Therefore, the impugned order is set aside and the appeal filed by the appellants is allowed on the ground of limitation.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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