CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH

SERVICE TAX APPEAL NO: 87366 OF 2017

[Arising out of Order-in-Appeal No. GOA-EXCUS-000-APP-017-2017-18 dated 02.06.2017 passed by the Commissioner of Central Excise & Customs (Appeals-II), Goa]

Sachin Naik ... ***Appellant***
Riva Resorts Pvt Ltd.
H. No. 54, Mandem, Junas Wada, Mandrem,
North Goa

versus

Commissioner of Central Excise) ***...Respondent***
& Customs (Appeals
Pune Appeal-II (Goa)
ICE House, E.D.C. Complex, Patto Pizza, Panaji, Goa

APPEARANCE:

None for the appellant

Shri S.B.P. Sinha, Superintendent (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85921/2026

DATE OF HEARING: 16.07.2026
DATE OF DECISION: 16.07.2026

PER: S.K. MOHANTY

None appeared for the appellant, despite issuance of hearing notices by the Registry. Heard Learned Authorized Representative for Revenue.

2. Non-payment of service tax and non-filing of periodical ST-3 returns in respect of the taxable services provided by the appellant, M/s Riva Resorts Private Limited was the subject matter of dispute in the order-in-original dated 25.01.2017 passed by the Assistant Commissioner of Central Excise and Service Tax, Goa. In the said order-in-original dated 25.01.2017, an amount of ₹2,00,000/- was imposed as penalty on the present appellant Shri Sachin Naik under Section 78A of Finance Act, 1994. The adjudication order dated 25.01.2017 was appealed against by both the said noticees before the Learned Commissioner (Appeals) and *vide* order-in-appeal dated 02.06.2017 (impugned herein), the Learned Commissioner (Appeals) has upheld the order-in-original and disposed off the appeals filed by the appellants. M/s Riva Resorts Private Limited had settled the matter under SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019. Accordingly, the Tribunal *vide* Final Order No. A/86040/2021 dated 17.03.2021 had dismissed the appeal as deemed withdrawal.

3. The present appellant has stated that since the issue involved in the case of the main noticee was settled under SVLRDS, 2019, penalty imposed on the appellant cannot be sustained. In this context, the appellant has placed reliance on the Final Order No. 85831-85835/2016 dated 01.06.2026, passed by this bench of the Tribunal in the case of *Baba Alloys Pvt Ltd and others vs. Commissioner of Central Excise, Nagpur*.

4. It is an admitted fact on record that the main noticee/appellant had settled the dispute under the SVLDRS, 2019. Since the present appellant is the co-noticee before the original proceedings and has preferred appeal before the Tribunal, the benefit of settlement of dispute by the main noticee/appellant under the SVLDRS, 2019 should be available to it. This bench of the Tribunal in the case of *Baba Alloys Pvt Ltd (supra)* has dealt with the issue and held as under:

"6. It is an admitted fact on record that the main noticee in the impugned proceedings had settled the dispute under the Scheme of 2019. Thus, the issue involved in the present appeals for consideration by the Tribunal is, whether penalties can be imposed on the co-noticees, in the eventuality, wherein the main noticee had settled the dispute under the Scheme of 2019. We find that the coordinate Bench of the Tribunal in the case of the other co-noticees has allowed the appeal, holding that once the issue has been settled by the main noticee under the Scheme of 2019, no proceedings survive against the co-noticees for imposition of penalties under Rule 26 of the Rules of 2002.

7. This Bench of the Tribunal in the case of Geeta N. Savla (supra) has allowed the appeal in favour of the co-noticee, holding as under:-

> *"3. We find that the issue arising out of the present dispute is no more open for any debate, in view of the various judgments relied upon by the learned Advocate for the appellants. In the case of Prakash Steelage Ltd. Verses Commissioner of Central Excise and Service Tax, Vadodara-II reported in 2025-TIOL-300-CESTAT-AHM, involving the identical set of facts, this Tribunal has recorded as under:*
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> *'4. On careful consideration of the submission made by both the sides and perusal of the records, we find that as of now it is settled that once the duty demand case is settled under SVLDRS-2019, as per Scheme itself, there is a waiver of penalties on the main assessee against whom the demand was confirmed as well as on other co-noticees. Some of the judgments on this issue are reproduced below:*
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> *- - Anil k Madani Vide Final Order No. A/87176-87178/2023*
>
> *Xxxx xxxx xxxx xxxx*
>
> *- Subhash Panchal vide Final Order No. 11014 of 2024 dated 08.05.2024*
>
> *xxx xxx xxx xxx*
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> *In view of above judgments given by the two coordinate Division Benches, the penalties imposed on the co-noticees in a case where the main noticee against whom the demand is confirmed, the case is settled under SVLDRS then in respect of other co-noticees penalty will not sustain even if they have not filed a declaration under SVLDRS-2019 and decision on the issue of SVLDRS-2019 in the case of Four R Associates and others reported as 2023 (11) TMI 9 CESTAT-Chennai given by Single Member Bench whereas the aforesaid cited decisions are given by Division Bench. Therefore, Division Bench judgment will prevail over Single Member Bench.*
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> *5. Accordingly, the Penalties on the appellants are not*

sustainable. Hence the same are set aside. Appeals are allowed."

8. In view of the foregoing discussions, we do not find any merits in the impugned orders passed by the learned Commissioner (Appeals), in upholding the adjudication orders passed by the original authority"

5. In view of forgoing discussions, the impugned order is set aside and the appeal is allowed in favor of the appellant.

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(M.M. PARTHIBAN)
Member (Technical)

**/as*