
	<b>केंद्रीय कर आयुक्त (अपील)</b>	
O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,	7 <sup>th</sup> Floor, Central Excise Building,	
केंद्रीय उत्पाद शुल्क भवन,	Near Polytechnic,	
सातवीं मंजिल, पोलिटेकनिक के पास,	Ambavadi, Ahmedabad-380015	
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रजिस्टर डाक ए.डी. द्वारा

क फाइल संख्या (File No.): V2(85) 7/EA-2/Ahd-II/Appeals-II / 2016-17  
 ख अपील आदेश संख्या (Order-In-Appeal No.): AHM-EXCUS-002-APP-112-16-17  
 दिनांक (Date): 25.09.2017, जारी करने की तारीख (Date of issue): 27/10/17  
 श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित  
 Passed by **Shri Uma Shanker**, Commissioner (Appeals)

ग \_\_\_\_\_ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-II), अहमदाबाद- II, आयुक्तालय द्वारा जारी  
 मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
 Arising out of Order-In-Original No. MP/08/Dem/AC/2016 Dated: 11-07-2016  
 issued by: Assistant Commissioner., Central Excise (Div-II), Ahmedabad-II

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

**M/s Shreaji Industries**

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person an aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way:

भारत सरकार का पुनरीक्षण आवेदन :  
 Revision application to Government of India:

(1) (क) (i) केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए।

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid:

(ii) यदि माल की हानि के मामले में जब हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।



- (c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हों।

- (d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

- (1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

- (2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

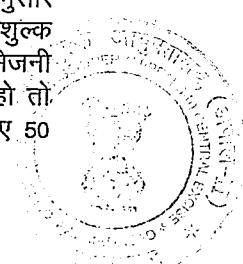
- (क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

- (a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.

- (ख) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपील के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मेटल हॉस्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016.

- (b) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

- (2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से



रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग" (Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस सन्दर्भ में इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो मांग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

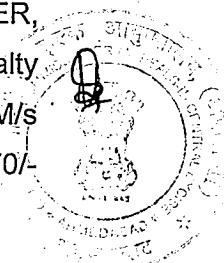


ORDER-IN-APPEAL

This order covers an appeal filed by the Assistant Commissioner, Central Excise, Division-II, Ahmedabad-II filed against Order-in-Original No. MP/08/Dem/AC/2016/PKS dated 11/7/2016 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Central Excise, Division-II, Ahmedabad-II (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated, the facts of the case are that on the basis of intelligence searches were carried out, among other places, at the factory premises of M/s Shreeji Industries, 2-3, Santosh Estate, opposite E.S.I. Dispensary, D-18, Saraspur, Ahmedabad (hereinafter 'M/s Shreeji'), engaged in the manufacture of Insulating PVC Cable and Winding Wire (Copper) falling under Chapter 74 of the first Schedule to the Central Excise Tariff Act, 1985 (CETA, 1985). On scrutiny of the records / documents and statements recorded under Section 14 of Central Excise Act, 1944 (CEA, 1944), it was revealed that M/s Shreeji was availing SSI exemption, was not registered with Central Excise and was not paying Central Excise duty on the manufacture and clearance of their final goods, PVC wire affixed with the brand name 'Sona', 'Sona Gold', 'M.R. Cab' and 'Shreeji' all of which were not owned by M/s Shreeji but was owned by other persons viz. M/s Cali Plast Processors, Saraspur, Ahmedabad. By virtue of the fact that M/s Shreeji was clearing goods under other's brand name, it was not eligible to avail SSI exemption and was required to pay Central Excise duty from the first clearance made in a financial year. Therefore, the goods valued at Rs.4,31,734/- lying in the factory premises of M/s Shreeji and goods valued at Rs.16,47,970/- cleared from the factory of M/s Shreeji and lying at the premises of M/s Brocade Outfit, Mirzapur, Ahmedabad were placed under seizure. Thereafter, a Show Cause Notice No. IV.85/03-17/Dem.Shreeji Industries/15-16 dated 01/03/2016 ('the SCN') was issued to M/s Shreeji proposing confiscation of the seized goods; demanding duty amount of Rs.2,59,963/- under Section 11A(1A) of the Central Excise Act, 1944 ('CEA, 1944'); proposing penalty under Section 11AC of CEA, 1944 read with Rule 25 of Central Excise Rules, 2002 ('CER, 2002'); proposing disposal of goods under Rule 29 of CER, 2002 or a fine in lieu of confiscation and proposing personal penalties under Rule 26 of CER, 2002 on Shri Alpeshbhai Govindbhai Patel, proprietor of M/s Shreeji and Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade Outfit, Mirzapur Road, Ahmedabad.

3. The SCN was adjudicated *vide* the impugned order where the adjudicating authority has confirmed the demand for duty of Rs.2,59,963/- under Section 11A(1A) of CEA, 1944 and an amount of Rs.2,06,000/- already deposited by the appellant has been appropriated against his confirmed demand. A penalty of Rs. 2,59,963/- has been imposed on the appellant under Section 11A C of CEA, 1944 read with Rule 25 of CER, 2002. A fine of Rs.10,000/- has been imposed in lieu of confiscation. A personal penalty of Rs.5,000/- has been imposed on Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade Outfit, Mirzapur Road, Ahmedabad. The B-11 Bond executed for Rs.16,47,970/-

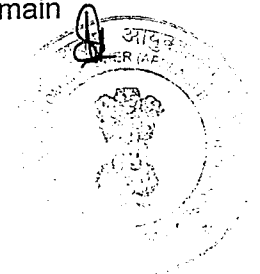


and Bank Guarantee No. 08380BG16001741 dated 12/02/2016 amounting to Rs.4,12,000/- have been invoked towards remaining payment of confirmed demand, penalty imposed on M/s Shreeji Industries and fine imposed in lieu of confiscation as well as personal penalty of Rs.5,000/- imposed on Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade Outfit, Mirzapur Road, Ahmedabad. The invoking of B-11 Bond executed for the release of seized goods amounting to Rs.4,31,734/- with B.G. No. 08080BG16001793 dated 15/02/2016 amounting to Rs.1,08,000/- against duty involved on the said goods amounting to Rs.53,963/- and penalty amounting to Rs.53,963/-.

4. The grounds of the departmental appeal are as follows:

- 1) The adjudicating authority has erred in not confiscating the goods in as much as the excisable goods were cleared from the factory of M/s Shreeji without payment of Central Excise duty as prescribed under Rule 4 & \* of CER, 2002. The adjudicating authority has found that the impugned goods valued at Rs.16,47,970/- were cleared without payment of duty and as such confirmed the duty leviable on the same. However, the fact that the same were cleared in contravention of the provisions of Rule 4, 6 & 8 of CER, 2002 has escaped the attention of the adjudicating authority. Once it is held that the excisable goods have been removed without payment of duty, the provisions of Rule 25 of CER, 2002 come into play and the goods become liable for confiscation under the provisions of Rule 25 of CER, 2002. Likewise excisable goods valued at Rs.4,34,734/- found not accounted for in the factory in contravention of the provisions of Rule 10 of CER, 2002 that was manufactured without obtaining Central Excise registration in contravention of Rule 9 of CER, 2002 also ought to have been confiscated in terms of the provisions of Rule 25 of CER, 2002. The adjudicating authority has imposed a fine in lieu of confiscation without confiscating the goods or holding them liable to confiscation which is bad in law. Unless the goods are confiscated, the option to redeem the same on payment of redemption fine cannot be offered and as such the adjudicating authority has committed a grave error in passing the impugned order. The quantum of redemption fine amount of Rs.10,000/- in lieu of confiscation of goods valued at Rs.20,79,704/- is too low and unjustified. The appellant had acted in *mala fide* manner and hence the redemption fine was too low in comparison to the value of goods liable for confiscation.
- 2) It has been prayed in the departmental appeal that the impugned order may be set aside and any other order as deemed fit may be passed; that the confiscation of goods valued at Rs.20,79,704/- may be confirmed in terms of the provisions of Rule 25 of CER, 2002 and B.G be ordered to be appropriated at the time of provisional release and pass any other order as deemed fit in the interest of justice.

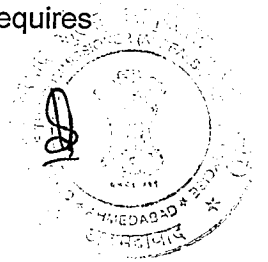
5. M/s Shreeji filed cross-objections *vide* letter dated 08/11/2016. The main contentions of these cross-objections are as follows:



1) The learned adjudicating authority while deciding the said issue has imposed fine of Rs.10,000/- in lieu of confiscation of the goods placed under seizure valued at Rs.1,647,970/-. M/s Shreeji had categorically denied all allegations made against it as the goods seized at the premises of M/s Brocade Outfit, Mirzapur, Ahmedabad (Traders premises) were manufactured by M/s Cali Plast Processor, Ahmedabad and not by M/s Shreeji. Even the confessional statements were tendered under pressure but to avoid litigation and to concentrate on business development, even though there was no sustainable evidence against them, M/s Shreeji had accepted the quantum of fine and paid up the same. The adjudicating authority has already imposed fine in lieu of confiscation, which is accordance to the provisions of Rule 25 of CER, 2002. Therefore, the order is just and proper and to be interfered. Rule 25 of CER, 2002 does not specify quantum of fine to be imposed in lieu of confiscation, it is the discretion of the authority concerned to impose fine. It is requested that the impugned order passed by the adjudicating authority may be upheld *in toto*.

6. An opportunity for personal hearing was granted to the appellant on 22/08/2016. Nobody appeared and no communication was received from M/s Shreeji. Another opportunity for P.H. was granted on 12/09/2017. In response to this P.H. letter, M/s Shreeji submitted a letter on 08/09/2017 stating that they had already submitted cross objection *vide* letter dated 06/11/2016 against the departmental appeal against the impugned order, which may be considered as their final submissions and that they did not want to make any further submission.

7. I have carefully gone through the contents of the impugned order, the grounds of appeal filed by the department and the cross objections filed by M/s Shreeji. The adjudicating authority has confirmed the duty liability of Rs.2,59,963/- as demanded in the SCN; imposed a penalty of Rs.2,59,963/- on M/s Shreeji; imposed a total fine of Rs.10,000/- in lieu of confiscation of the seized goods and imposed a personal penalty of Rs.5000/- on Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade Outfit. The adjudicating authority has also ordered the invoking of the Bank Guarantees filed by M/s Shreeji and appropriation of the same against the remaining amount of duty, penalty and fine in lieu of confiscation to be paid by M/s Shreeji and the personal penalty payable by Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade Outfit. Neither M/s Shreeji nor Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade has filed appeal against the impugned order. In the cross-objection filed by M/s Shreeji, they have requested that the impugned order be upheld *in toto*. The confirmation of demand for duty, imposition of penalty on M/s Shreeji and imposition of personal penalty on Shri Bimal Ashokkumar Khandwala, proprietor of M/s Brocade in the impugned order are not challenged even in the appeal filed by department. Thus the only issue that requires decision in the instant appeal is the confiscation of seized goods.



8. The portion of the impugned order that has been contested by Revenue is contained in paragraph 20 thereof where the adjudicating authority has held as follows:

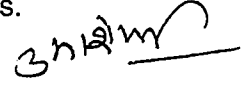
***"I refrain from confiscating the seized goods, as the assessee had paid an amount of Rs.2,06,000/- duty vide GAR-7 challan No.69103751104201610022 dated 11/04/2016 and also executed B-11 Bond with security of Rs.4,12,000/- and 1,08,000/- for the release of the goods valued Rs.16,47,970 and Rs.4,31,734/- respectively. However, I shall impose a fine in lieu of confiscation."***

This finding is erroneous for the reason that there is no legal validity to drop the proposal for confiscation of seized goods and then impose fine in lieu of confiscation. Moreover, penalty has been imposed on M/s Shreeji under Rule 25 of CER, 1944, which clearly stipulates that subject to the provisions of section 11AC of CEA, 1944, if any manufacturer removes any excisable goods in contravention of any of the provisions of CER, 2002 or the notifications issued under these rules, then all such goods shall be liable to confiscation and the manufacturer shall be liable to penalty. In paragraph 6 of the impugned order it has been brought out that M/s Shreeji had contravened the provisions of Rule 6, Rule 8, Rule 9, Rule 10, Rule 11 and Rule 12 of CER, 2002. These contraventions naturally entail confiscation and penalty, which go hand in hand under the provisions of Rule 25 of CER, 2002. On considering the impugned order further, it is seen that personal penalty imposed on the trader Shri Bimal Ashokkumar Khandwala, proprietor of M/s Borcade Outfit was proposed in the SCN under Rule 26 of CER, 2002. A penalty under Rule 26 of CER, 2002 is imposed on a person who, inter alia, acquires possession of and deals with excisable goods, which he knows or has reason to believe are liable to confiscation under the Act or the Rules. Therefore, it is not legally tenable to impose personal penalty under Rule 26 of CER, 2002 without ordering confiscation of the impugned goods. Therefore, the finding in the impugned order refraining from confiscation of seized goods is erroneous and is liable to be overturned. To this extent I allow the appeal of the department by overturning the finding of the adjudicating authority that he refrains from confiscating the seized goods. The departmental appeal contends that the M/s Shreeji cannot be allowed to redeem the goods valued at Rs.20,79,704/- on payment of a meager fine of Rs.10,000/- in lieu of confiscation and that while deciding the quantum of fine in lieu of confiscation, the facts of the case should be taken into consideration. It is also contended that in the instant case, M/s Shreeji had blatantly violated the provisions of law and by this means have also evaded Central Excise duty. On considering the facts, it is seen that in the instant case, goods valued at Rs.16,47,970/- and Rs.4,31,734/- were seized and fine in lieu of confiscation totally amounting to Rs.10,000/- has been imposed. As regards the quantum of fine imposed, I find that Hon'ble Apex court in the case of Jain Export reported as 1990 (47) E.L.T. 213 (SC) have stated that for determining the quantum of redemption fine 'extenuating circumstances and bona fide conduct of the party are relevant factors'. I find that M/s Shreeji has knowingly contravened the



provisions of CEA, 1944 and had the preventive team not detected this, it would have evaded the duty and therefore, the quantum of redemption fine imposed by the adjudicating authority is low and I would like to enhance it to 25% of the value of goods seized. In view of the above discussion, I confirm confiscation of seized goods under the provisions of Rule 25 of CER, 2002 and enhance the quantum of redemption fine to 25% of the value of seized goods. The impugned order stands modified to above extent.

9. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
The appeal filed by the appellant stands disposed of in the above terms.



(उमा शंकर)

आयुक्त

केन्द्रीय कर (अपील्स)

Date: 25/9/2017

Attested



(K. P. Jacob)  
Superintendent (Appeals-I)  
Central Excise, Ahmedabad.

By R.P.A.D.

To  
M/s Shreeji Industries  
T-3, Santosh Industrial Estate,  
Opposite Manmohan Society, Saraspur,  
Ahmedabad – 380 018.

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad.
2. The Commissioner of C.G.S.T., Ahmedabad (North).
3. The Joint / Additional Commissioner, C.G.S.T. (System), Ahmedabad (North).
4. The Assistant / Deputy Commissioner, C.G.S.T., Division-II, Ahmedabad (North).
5. Guard File.
6. P.A.

