

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3

**Excise Appeal No. 11901 of 2013**

Excise Miscellaneous (ORS) Application No. 10326 of 2019

(Arising out of OIO-55/COMMISSIONER/2013dated 30/03/2013 passed by Commissioner of Central Excise-RAJKOT)

**Spray King Agro Equipment Pvt Ltd**

**.....Appellant**

Plot No. 590,  
Gidc, Phase-2, Dared,  
Jamnagar, Gujarat

*VERSUS*

**C.C.E. & S.T.-Rajkot**

**.....Respondent**

Central Excise Bhavan,  
Race Course Ring Road...Income Tax Office,  
Rajkot, Gujarat – 360001

**WITH**

**Excise Appeal No. 11903 of 2013**

(Arising out of OIO-55/COMMISSIONER/2013dated 30/03/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-RAJKOT)

**Hitesh P Dudhagra**

**.....Appellant**

Director Of M/S, Spray King Agro Equipment Pvt Ltd, Plot No. 590,  
Gidc, Phase-2, Dared,  
Jamnagar, Gujarat

*VERSUS*

**C.C.E. & S.T.-Rajkot**

**.....Respondent**

Central Excise Bhavan,  
Race Course Ring Road...Income Tax Office,  
Rajkot, Gujarat – 360001

**APPEARANCE:**

Shri P.D Rachchh, Advocate appeared for the Appellant  
Shri T.G Rathod, Additional Commissioner (Authorized Representative) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR  
HON'BLE MEMBER (TECHNICAL), MR. P.ANJANI KUMAR**

**Final Order No. A/ 10415-10416 /2022**

DATE OF HEARING: 17.11.2021  
DATE OF DECISION: 05.05.2022

**05.0RAMESH NAIR**

These appeals are directed against Order-Original No. 55/Commissioner/2013 dated 30.03.2013.

2. The fact of the case is that appellant is engaged in the manufacture of Brass parts of agricultural products falling under Chapter sub- heading 8424900 of the Central Excise Tariff Act, 1985. As per the Notification No. 03/2005-CE dated 24.02.2005, Brass parts of Agriculture Products are exempted from payment of Central Excise duty. The appellants are also manufacturing intermediate products, viz. Brass Casted Rods at their own factory and also getting it manufactured at the place of Job worker. They used Brass Casted Rods captively. On this captive consumption of the Brass Casted Rods which are used for the manufacture of final product, the appellant claimed exemption under Notification No. 67/95-C.E., dated 16-3-1995, Notification 83/94-CE and 84/94 - CE both dated 11.04.1994. The appellants were issued show cause notice proposing demand of excise duty of Rs. 11,55,62,312 on intermediate goods viz. casted brass rods manufactured by them and manufactured on job work basis. The demand of duty was confirmed by the Commissioner vide the impugned order and penalty equivalent to the duty under Section 11AC was also imposed. In addition, personal penalty of Rs 5,00,000/- was also imposed on Shri Hiteh P. Dudhagra, Director, of the appellant Company. Therefore, the appellants are before us.

**3.** Shri P.D Rachchh, Learned Counsel for the appellant submits that in the present matter they have not availed the Cenvat Credit under Cenvat Credit Rules 2004, therefore they complied the provisions of / discharged obligation under Rule 6 of the CCR, 2004. Thus, eligible for exemption for intermediate goods viz. Brass Cast Rods manufactured in their factory and used captively for manufacture of parts of Agriculture Equipments in terms of clause (vi) of Notification No. 67/95-CE dated 16.03.1995. In this regard he placed reliance on the following judgments:

- (i) Funksool (India) Ltd. Vs Commr. of Central Excise &Cus., Goa-2017(357)ELT434 (Tri.-Mumbai)
- (ii) Sagar Industries & Distilleries Pvt. Ltd. Vs. Commr. C.Ex. &Cus., Nasik – 2016(344) ELT 537 (Tri.- Mumbai)
- (iii) Sakthi Sugars Ltd. Vs Commr. of C.Ex, Salem – 2008(230)ELT676 (Tri.- Chennai)
- (iv) Commissioner Vs. Sakthi Sugars Ltd. – 2016(332) ELT A194(SC)
- (v) Ultratech Cements Ltd. Vs. Commissioner of C.Ex& S.T., Tiruchirapalli – 2016(343) ELT 164 (Tri.- Chennai)

3.1 He alternatively claimed that Cast Brass Rods manufactured in factory were exempted in terms of Sr. No. 2 of Notification No. 8/2003-CE dated 01.03.2003 which reads as under:

S. No	Value of clearances	Rate of duty
(1)	(2)	(3)
2.	All clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods.	Nil

Brass Cast Rods (specified good) were used for further manufacture of specified goods viz. Parts of Agriculture Equipment within the factory of specified goods. He submits that Second proviso to first paragraph of Notification No. 8/2003-CE dated 01.03.2003 as amended "*Provided further that exemption contained in this Notification shall not apply to goods which are chargeable to nil rate of duty or are exempt from the whole of the duty of excise leviable thereon*" is not applicable to Brass Cast Rods as department has demanded duty on that only. Appellant has not claimed the above Sr. No. 2 for parts of Agriculture Equipments which are exempted.

3.2 He further submits that goods manufactured on Job Work basis is exempted from duty of excise under Notification No. 83/94-C.E. dated 11.04.1994 and applies to intermediate goods. The Notification No. 84/94-C.E. dated 11.04.1994 applies to waste and scrap sent to Job Worker for manufacture of intermediate goods. Therefore, confirmation of demand of Rs. 3,94,46,239/- on intermediate goods got manufactured on Job Work basis is also liable to be quashed. Without prejudice he also submits that if it is upheld that duty of excise is payable on intermediate goods than it is admissible for set off against Cenvat Credit of duty paid on Brass Scrap.

3.3 He also argued that demand was barred by limitation as prior to impugned notice, premises was searched on 21.03.2006, the department has also issued SCN dated 21.06.2006. Appellant filed undertaking as provided under Notification No. 83/94-CE and 84/94 CE both dated 11.04.1994 and declaration under Notification No. 36/2001-CE (NT) dated 26.06.2011 as amended for each year of dispute. Therefore, entire activities of Appellant were well within the knowledge of department and it had not suppressed anything from department. Entire demand for the period 2006-07 to 2009-10 issued on 28.04.2011 is badly time barred. He placed reliance on following decisions:

- Nizam Sugar Factory Vs. Collector of Central Excise, A.P. – 2006(197)ELT465 (SC)
- ECE Industries Ltd. Vs CCE, New Delhi – 2004(164)ELT 236(SC)
- Gujrat Ambuja Exports Ltd. Vs Union of India – 2012(26)STR 165(Guj)

4. Shri T.G Rathod, Learned Additional Commissioner (AR) appearing for the Department, has submitted the written submission and countered the appellants' arguments. He supported the findings in the impugned order and submits that provisions of Notification No. 67/95 are not applicable in Appellant case. Under the provisions of Central Excise Law, the duty liability is on the manufacturer of the goods. With regard to the manufacture of Brass Casted Rods at the place of Job Worker the appellant has given undertaking that they will pay the Central Excise Duty if any, payable on such goods. Thus, duty liability under both the situations is on the Appellant. Provisions of Notification No. 8/2003-CE dated 01.03.2003 cannot be applied in the present case as the final products viz., Brass Parts of Agricultural products manufactured by the appellant are exempted from the whole of the duty of excise leviable thereon. As regards the argument of appellant that earlier case has been booked against them and department was in knowledge of facts, therefore extended period not applicable, he submits that product involved here is Brass Casted Rods. The issue in earlier case was the intermediate product brass extruded rods captively consumed in manufacturing of final products. Case laws relied upon by the appellant not applicable being on different facts.

5. We have considered the submissions made by both the sides and perused the records. The issue before us is to decide as to whether Central Excise Duty is payable on the intermediate products viz. Brass Casted Rod, manufactured at their unit own by appellant and Job Work Basis and further used in manufacture of exempted final products viz. Brass Parts of Agriculture Products which is exempted from payment of Central Excise Duty. From the impugned order, we find that the adjudicating authority denied the exemption Notification No. 67/95-C.E. in respect of intermediate products viz. Brass Casted Rod used captively for manufacture of exempted goods on the ground that the exemption contained in the said Notification does not apply to inputs used in or in relation to the manufacture of final products which are exempted from the whole of duty of excise leviable thereon or are chargeable to 'NIL' rate of duty. For better understanding we reproduce the Notification No. 67/95 as below:

**"C. CAPTIVE CONSUMPTION (GOODS USED WITHIN FACTORY OF PRODUCTION)**

**GENERAL EXEMPTION NO. 6**

**Exemption to all capital goods and inputs if captively consumed within the factory of production.** - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), (herein after referred to as the said Special Importance Act), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts -

(i) capital goods as defined in rule 3 of the Cenvat Credit Rules, 2002 manufactured in a factory and used within the factory of production;

(ii) goods specified in column (1) of the Table hereto annexed (hereinafter referred to as input) manufactured in a factory and used within the factory of production in or in relation to manufacture of final products specified in column (2) of the said Table;

from the whole of the duties of excise leviable thereon which is specified in the Schedules to the Central Excise Tariff Act, 1985 (5 of 1986) or additional duty of excise leviable thereon, which is specified in the Schedule to the said Special Importance Act :

Provided that nothing contained in this notification shall apply to inputs used in or in relation to the manufacture of final products which are exempt from the whole of the duty of excise or additional duty of excise leviable thereon or are chargeable to nil rate of duty, other than those goods which are cleared, -

(i) to a unit in a Free Trade Zone, or

(ii) to a hundred per cent Export Oriented Undertaking, or

(iii) to a unit in an Electronic Hardware Technology Park, or

(iv) to a unit in a Software Technology Park, or

(v) under Notification No. 108/95-Central Excise, dated the 28th August, 1995, or

(vi) by a manufacturer of dutiable and exempted final products, after discharging the obligation prescribed in rule 6 of the Cenvat Credit Rules, 2001.

**TABLE**

<b>Description of Inputs</b>	<b>Description of final products</b>
(1)	(2)

<p><i>All goods falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), other than [light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol.</i></p>	<p><i>All goods falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), other than the following, namely :-</i></p> <p><i>(i) matches;</i></p> <p><i>(ii) fabrics of cotton or man-made fibres falling under Chapter 52, Chapter 54 or Chapter 55 of the First Schedule to the said Act;</i></p> <p><i>(iii) fabrics of cotton or man-made fibres falling under heading No. 58.01, 58.02, 58.06 (other than goods falling under sub-heading No. 5806.20), 60.01 or 60.02 (other than goods falling under sub-heading No. 6002.10) of the First Schedule to the said Act.</i></p>
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From the plain reading of the above notification, it is observed that in the proviso to clause of the notification it is provided that the exemption shall not apply to inputs used in or in relation to the manufacture of final product which are exempt from the whole of the duty of excise or chargeable to nil rate of duty. However, though the exemption is not available to the intermediate goods used in the exempted goods but exception was provided that even if the final product is exempted and the assessee discharge the obligation prescribed in Rule 6 of Cenvat Credit Rules, then in spite of the final product is exempted, the exemption on the intermediate goods is available in terms of the aforesaid notification. Now we have to see whether the appellant have discharged the obligation under Rule 6 of Cenvat Credit Rules, which is reproduced below:

***"Rule 6. Obligation of manufacturer of dutiable and exempted goods. -***

*(1) The Cenvat credit shall not be allowed on such quantity of inputs which is used in the manufacture of exempted goods, except in the circumstances mentioned in sub-rule (2).*

*(2) Where a manufacturer avails of Cenvat credit in respect of any inputs, except inputs intended to be used as fuel, and manufactures such final products which are chargeable to duty as well as exempted goods, then, the manufacturer shall maintain separate accounts for receipt, consumption and inventory of inputs meant for use in the manufacture of dutiable final products and the quantity of inputs meant for use in the manufacture of exempted goods and take Cenvat credit only on*

*that quantity of inputs which is intended for use in the manufacture of dutiable goods.*

(3).....

From the above Rule 6 it can be seen that as per sub-rule (1) of Rule 6, the assessee is not required to avail the Cenvat credit in respect of the inputs used in the manufacture of exempted goods. As per the fact of the present case it is undisputed fact that the appellant during the impugned period not registered with the Central Excise Department, hence, has not availed the Cenvat credit in respect of any of the inputs used either in the final product or in the intermediate product i.e., Brass Casted Rods. Therefore, the condition of sub-rule (1) of Rule 6 stands complied with. The finding of the adjudicating authority as regard the applicability of above notification is misleading and absolutely incorrect. We are therefore of the considered view that the appellant has discharged the obligation under Rule 6(1) accordingly they are legally entitled for the exemption Notification No. 67/95-C.E., dated 16-3-1995 in respect of their intermediate product i.e., Brass Casted Rods.

5.1 In the present matter appellant also claimed exemption alternately under the provisions of Notification No. 08/2003 -CE dated 01.03.2003. Since as per the above finding appellant are legally entitled for the exemption Notification No. 67/95-C.E dated 16.03.1995 in respect of their intermediate products i.e. Brass Casted Rods we are not going to further discuss on the alternative exemption claimed by the Appellant.

5.2 Now we come to the second issue as to whether any exemption from duty can be available to the Appellant as regard to the intermediate products viz. Brass Casted Rods manufactured by the Appellant through Job Worker and further used in manufacture of exempted goods. As regard the said issue the Ld. Adjudicating Authority in impugned order held as under

*37. There are principally three conditions which exempt goods if manufactured in a factory as Job work and further used in the manufacture of final products at the place of the principal manufacturer. The details of the same areas under:*

- i. Notification No. 214/86-CE dated 25.03.86 as amended which exempts items if manufactured in a factory as a job work and used in the manufacture of final products or cleared as such from the factory of*

*supplier of raw materials or semi- finished goods on payment of duty or as specified therein.*

- ii. Notification No. 83/94-CE dated 11.04.94 as amended, which exempts goods specified in the SSI Exemption Notification No. 8/2003-CE and 9/2003-CE if manufactured on Job Work basis.*
- iii. Notification No. 84/94-CE dated 11.04.94 as amended, which exempts goods specified in the SSI Exemption Notification No. 8/2003-CE and 9/2003-CE, if cleared for job work.*

From the above it can be seen that the above notification mainly provides for exemption to the Job Work activity and cast duty liability on the principal manufacturer on whose behalf the job worker under takes manufacturing of the goods. It does not erase the duty liability just because the goods are manufactured on job work basis. The goods undergo duty liability at the hands of the principal manufacturer on behalf of whom the Job Worker manufactures the goods or process the raw materials or semi-finished goods.

*37.1 I find that the said party have cleared their raw materials or semi-finished goods to the job-worker and received intermediate goods viz., Brass Casted Rods manufactured by the Job-Worker without following the prescribed conditions , without preparing the job- work challans and without maintaining any records thereof. Substantial condition of the Notification No. 84/94-CE dated 11.04.94 cannot be said to have been fulfilled if removal of materials to the Job-worker and its return from the job-worker after carrying out necessary process is not under proper documents.*

5.3 We find that, the Notification No. 84/1994-CE dated 11.04.1994 grants exemption to the excisable goods of the description specified in Annexure to the Notification No. 8/2003-CE dated 01.03.2003 (Specified goods) manufactured in a factory as Job Work from the whole of the duty of excise leviable thereon subject to the condition that the supplier of raw materials or semi-finished goods, gives an under taking to the proper officer having jurisdiction over the factory of job worker that specified goods received from the Job Worker shall be used in the factory of such supplier in or in relation to the manufacture of specified goods which are exempted from the whole of



the duty of excise leviable thereon under the aforesaid notification or goods falling under heading 8424 (except mechanical appliances which are of a kind of used in agriculture or horticulture) and that in the event of his failure to do so, he undertakes to pay excise duty, if any, payable on such goods but for the exemption contained in this notification, as if such goods were manufactured by the said supplier and sold on his own accounts. In the present matter Learned Adjudicating Authority disputed benefit of the said notification only on ground Appellant have cleared their raw materials or semi-finished goods to the job-worker and received intermediate goods viz., Brass Casted Rods manufactured by the Job-Worker without following the prescribed conditions, without preparing the job- work challans and without maintaining any records. However, the said notification grants exemption to the specified goods manufactured in a factory of job worker subject to only condition that the supplier of raw materials or semi-finished goods gives an undertaking to the proper officer having Jurisdiction over the factory of the Job Worker. In the instant case in para 38 of impugned order the Ld. Adjudicating authority itself admitted that Appellant has given undertaking. Therefore, benefit of said notification cannot be denied on this ground alone.

5.4 Without prejudice, as regard the said issue we also find that even if the benefit of job-work notification denied to the Appellant, the duty liability rests on the job worker. Therefore, the show cause notice demanding duty from the Appellant on the goods manufactured by the Job-worker cannot be sustained. Once the Revenue took a view that the inputs could not have been sent to a job worker claiming the Job-work exemption Notifications and the process undertaken by the job worker amounted to manufacture and resulted in products namely, Brass Casted Rods, the duty liability would fall on the manufacturer who is a job worker in this case and not on the appellant. Since duty demand has been made on Brass Casted Rods and the appellant is not a manufacturer of the same, the demand is not sustainable and accordingly, the impugned order demanding duty from appellant is legally not correct. We find that the larger bench of Hon'ble CESTAT in the matter of M/s Thermax Babcock & Wilcox Ltd. Vs Commissioner of C.Ex. Pune -I, reported at 2018(364) ELT 945 (Tri. -LB) held that:

**8.** *As per above discussion, we hold that the job worker M/s. Thermax being manufacturer of excisable goods is liable to pay duty on the intermediate goods manufactured by him on job work basis which supplied to their principal M/s. Thermax Babcock. The question referred to this larger*

*bench is answered accordingly. Registry is directed to place the appeals before the referral bench for appropriate orders.*

In the case of *Desh Rolling Mills v. CCE, Delhi* - [2000 \(122\) E.L.T. 481](#) (Tri.), the Appellate Tribunal confirmed duty demand upon the jobworker as the job work activity was not undertaken in terms of Notification No. 214/86-C.E. The Tribunal held as under:

*"Notification No. 214/86 provides exemption to the goods manufactured in a factory as a job work and used in or in relation to the manufacture of final product on which duty of excise is leviable whether in whole or in part subject to the condition that supplier of the raw materials gives an undertaking to the Assistant Collector of Central Excise, having jurisdiction over the factory of the jobworker, that the goods shall be used in or in relation to the manufacture of the final products in his factory; the said supplier produces evidence that the goods have been so used and he undertakes the responsibilities of discharging the liabilities in respect of duty leviable on the finished products. We find that no evidence has been brought on record by the Appellants to prove that the supplier of the raw-material had supplied the materials to them under the provisions of Notification No. 214/86. In view of absence of any material to this effect, it is not open to the Appellants to claim that they were working under the provisions of Notification No. 214/86. The copies of challans brought on record by the Appellants only refer to the movement of excisable goods under Rule 57F(2). In view of this, the reliance placed by the Appellants on the observation of the Tribunal in respect of Notification No. 214/86 in the remand order is not tenable. We also observe that the Tribunal directed the Adjudicating Authority to decide the matter in the light of the observations and also according to the law. Notification No. 214/86 nowhere provides that the supplier of the raw material will be liable to pay the duty on the goods manufactured as a job work. Para 2 of the Notification No. 214/86 speaks of the liability of the supplier for discharging the duty leviable on the finished products and not on the goods manufactured on job work basis. The Adjudicating authority has rightly relied upon the decision in the case of JinaBakul Forge*

*Pvt. Ltd. (supra). Accordingly, we uphold the demand of Central Excise Duty as confirmed by the Commissioner (Appeals) in the impugned Orders.”*

Similarly, the tribunal in the matter of M/s Senor Metals Pvt. Ltd. Vs Commissioner of C.Ex. & S.T., Rajkot – 2014(308) ELT 491 (Tri. Ahmd) held that:

*Heard both sides and perused the case records. The first issue which is required to be deliberated upon whether appellant is required to discharge duty liability on certain intermediate goods which come into existence in their factory premises which are not "specified goods" under Notification No. 8/2003-C.E., dated 1-3-2003 as amended by Notification No. 8/2006-C.E., dated 1-3-2006. It is observed from Sr. No. (xxiv) of annexure to Notification No. 8/2003-C.E., dated 1-3-2003 and Sr. No. (xxxii) to (xxiv) of annexure to Notification No. 8/2006-C.E., dated 1-3-2006 that certain categories of copper articles are not eligible to small scale exemption. The opening paragraph of the Notification Nos. 83/1994-C.E. and 84/1994-C.E. both dated 11-4-1994 grants exemption to the job worker with respect to specified goods of small-scale exemption notification, sent back to the raw material suppliers who are availing SSI exemption. Certain procedures have been prescribed by which the raw material suppliers have to give an undertaking that the specified goods will be returned back to their premises and such specified goods received from the job worker will be used in the factory of such suppliers in or in relation to the manufacture of specified goods which are exempted under small scale exemption notification. The argument taken by the appellant that for any duty liability on the intermediate goods that come into the existence in appellant's factory, lies with the raw material supplier is not correct because as per the wording of the undertakings only duty liability with respect to the finished specified goods is required to be discharged by the raw material suppliers. The duty liability on the manufactured goods, which come into existence and are captively consumed for which exemption is not available under SSI exemption Notification No. 1/93-C.E., is required to be discharged by the appellant/job worker. This view has already been upheld by the CESTAT - Delhi in the case of Super Polyfabriks Ltd. v.*

*CCE, Chandigarh (supra). Paragraph Nos. 2, 3 and 8 of the judgment are relevant and are reproduced below:*

*"2. Brief facts are: 'M/s. Super Poly Fabrics Ltd. as well as M/s. Fine Fabricators are manufacturers of HDPE bags and sacks falling under Chapter Heading 39 of the Central Excise Tariff Act, 1985. They paid Central Excise duty at the time of clearance of bags and sacks. They also availed the benefit of SSI exemption Notification No. 1/93.*

*3. According to the Appellants, M/s. Fine Fabricators (FF for short) send HDPE granules to M/s. Super Poly Fabrics Ltd. (SPF for short) for the manufacture of fabrics on job work basis in terms of Notification No. 83/94 and 84/94-C.E. as per declaration filed by them. SPF in turn convert the granules into fabrics and send them back to FF who thereafter manufacture sacks out of the said fabrics. According to the appellants, during the manufacture of sacks, strips emerged at the intermediate stage as an inevitable consequence.*

*4. ....*

*5. ....*

*6. ....*

*7. ....*

*8. We have considered the submissions. We are unable to accept the contention of the appellants. The Tribunal's majority decision in Dukart and Company case (supra) would not apply to the facts of the case before us. That decision primarily dealt with the aspect of computation of aggregate value of certain specified goods captively consumed used for further manufacture of specified goods within the factory of production of inputs. The question of clearances of goods by job worker did not arise in that case. In the facts and circumstances of the instant case, the question relates to the availability of slab exemption to job workers where certain intermediate goods are manufactured during the process of job work. Further, it is also not permissible to extend the ratio of a decision interpreting one notification to another notification, since the objects of the two notifications would differ widely. We do not also find any infirmity in the line of reasoning followed in the impugned order relating to the limited scope of the definition of 'job work' under Notification Nos. 83/94 and 84/94. We therefore, confirm the duty demand made on M/s. Super Poly Fabrics."*

**6.** *A similar view has also been taken with respect to brass bars, which come into existence in the factory premises of the job worker, by CESTAT - Mumbai in the case of Astron Engineers (I) Pvt. Ltd. v. CCE, Pune-III (supra). In view of the above observations and the case laws relied upon by the revenue duty liability with respect to intermediate goods which come into existence, which are not specified in annexure to the small-scale exemption notification, as amended, lies with the appellant and is required to be confirmed on merits.*

5.5 For the same reasons, in the facts and circumstances of the present case, the demand on this count also must be quashed and set aside. Since the entire demand has been set aside, consequently penalties and demand of interest are also set aside.

6. As per our above observations and findings, the impugned order is set aside and appeals are allowed with consequential reliefs, if any.

(Pronounced in the open court on 05.05.2022 )

**RAMESH NAIR  
MEMBER (JUDICIAL)**

**P.ANJANI KUMAR  
MEMBER (TECHNICAL)**

Geeta