

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

REGIONAL BENCH- COURT NO. 3

**Excise Appeal No. 12237 of 2019**

(Arising out of OIA-AHM-EXCUS-003-COM-003-19-20 dated- 10/07/2019 passed by Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD-III)

**Samir Transport Company**

Ekta Nagar, Rain Basera, B/h. All India Radio Station, Salawada Road  
Vadodara , Gujarat

.....Appellant

VERSUS

**C.C.E. & S.T.-Ahmedabad-iii**

Custom House... 2nd Floor,  
Opp. Old Gujarat High Court, Navrangpura,  
Ahmedabad, Gujarat - 380009

.....Respondent

**WITH**

**Excise Appeal No. 12238 of 2019**

(Arising out of OIA-AHM-EXCUS-003-COM-003-19-20 dated- 10/07/2019 passed by Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD-III)

**S B Roadlines**

Ekta Nagar, Rain Basera, B/h. All India Radio Station, Salawada Road  
Vadodara , Gujarat

.....Appellant

VERSUS

**C.C.E. & S.T.-Ahmedabad-iii**

Custom House... 2nd Floor,  
Opp. Old Gujarat High Court, Navrangpura,  
Ahmedabad, Gujarat - 380009

.....Respondent

**Appearance:**

Shri Vipul Khandhar, Chartered Accountant appeared for the Applicant  
Shri G. Kirupanandan, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**

**Final Order No. A/ 11313 -11314/2022**

DATE OF HEARING: 06.10.2022  
DATE OF DECISION: 31.10.2022

**RAMESH NAIR**

These two appeals are directed against order in original No. AHM – EXCUS- 003-COM-003-19-20 dated 10.07.2019 wherein demand of alleged fraudulent cenvat credit of Rs 50,81,22,157/- was confirmed against M/s Archon Engicon Limited on the ground that M/s Accord Industries Limited have issued invoices without supplying the inputs. In connection to this fraudulent passing of cenvat credit , penalties were imposed on the

present appellants under Rule 26 (2) of Central Excise Rules, 2012. Therefore, the present appeals filed by the appellants.

2. Shri Vipul Khandhar, Learned Chartered Accountant appearing on behalf of the appellant submits that penalty was imposed on the appellants on the ground that they have facilitated the passing of wrong availment of cenvat credit by giving blank LRs to M/s Accord Industries Limited. He submits that the appellants were not involved in issuance of cenvatable invoices and they were also not involved in handling the goods. The Penalty under Rule 26 (2) cannot be imposed upon the appellants for the reason that they have not prepared or issued any documents which helped M/s Archon Engicon Limited for fraudulent availment of Cenvat Credit . He submits that the appellants being transporters had not issued any note and not involved in transportation therefore imposition of penalty under Rule 26 (2) is unjustifiable. He further submits that there is no act of the appellant whereby the appellant has abated in the fraudulent availment of cenvat credit. Accordingly the penalty was wrongly imposed.

3. Shri G. Kirupanandan, Learned Superintendent(AR) appearing on behalf of the Revenue reiterates the finding of the impugned order. He submits that there is no dispute that the appellants have given the blank LRs which were used for showing transportation of goods whereby the fraudulent cenvat credit was passed on. Therefore, the penalty was rightly imposed.

4. I have carefully considered the submission made by both sides and perused the records. In the present case the penalty was imposed on the appellants under Rule 26 (2) of Central Excise Rules, 2002. In connection with fraudulent passing of cenvat credit on the invoices issued by M/s Accord Industries Limited to M/s Archon Engicon Limited. The fact is not under dispute by the Revenue as well as by the appellant that the appellant have admittedly provided the blank LRs to M/s Accord which were used for

passing of fraudulent cenvat credit . Accordingly the act of giving blank LR books itself clearly falls under purview of Rule 26(2) of Central Excise Rules, 2012. It is immaterial that whether the appellants were handling the goods or otherwise. Even providing blank LRs establish the abatement in passing of fraudulent cenvat credit. I Therefore have no hesitation to view that the act of the appellants clearly falls under the four corners of Rule 26 (2) of Central Excise Rules, 2012

5. Accordingly, I uphold the penalty and dismiss the appeals.

(Pronounced in the open court on 31.10.2022)

**RAMESH NAIR**  
**MEMBER (JUDICIAL)**

Geeta