

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

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PRINCIPAL BENCH – COURT NO. 3

**Excise Appeal No. 51170 of 2020**

[Arising out of Order-In-Appeal No. 90/Central Tax/Apl-II/Delhi/2019 dated 30.09.2019 passed by the Commissioner (Appeals)-II CentralGST, EIL Annexe Building, New Delhi]

**Gripple Hanger & Joiner Systems India Pvt Ltd : Appellant (s)**

C-115, Ground Floor, Naraina  
Industrial Area, Phase-I  
New Delhi 110028

Vs

**Commissioner of CGST, Delhi South**

**: Respondent (s)**

EIL Annexe Building, Bhikaji Cama Place  
South Delhi, New Delhi 110066

**APPEARANCE:**

Shri S.C. Kamra, Advocate for the Appellant

Shri Rakesh Agarwal, Authorized Representative for the Respondent

**CORAM :**

**HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 50888/2025**

Date of Hearing:08.04.2025

Date of Decision:**05.06.2025**

***P.ANJANI KUMAR:***

The appellants, M/s. Gripple Hanger filed the present appeal against Order-in-Appeal dated 30.09.2019 passed by the Commissioner of Central GST (Appeals-II), Delhi.

2. Briefly stated the facts of the case are that the appellant is engaged in supply of wire rope hangers with the brand name "Gripple" and have classified the same under CETH 7312.10; the appellant got registered with the Central Excise Department on 11.04.2013; the Revenue conducted an audit of the records of the appellant, in the month of August,2015, for the period 2013-14 and 2014-15; Audit

team observed that the appellant had crossed the threshold limit of Rs.1.5 cr. during the initial period 2011-12 and 2012-13 but did not make any payment of central excise duty on clearance of wire rope hangers with accessories; an Audit Memo dated 27.08.2015 was issued to the appellant asking for certain documents and advising the appellant to deposit excise duty on clearances made during the period 2011-12 and 2012-13; the appellant did not deposit the duty; Audit forwarded the information to Anti Evasion Branch, who visited the premises of the appellant on 16.09.2015 and searched the premises of the appellant and resumed certain records / documents. The anti-Evasion Officers entertained an opinion that the appellant was manufacturing wire rope hangers in their premises with the help of machines and that the appellant neither got registered nor maintained the statutory records nor paid appropriate excise duty, after crossing exemption limit during the period 01.04.2011 to 30.04.2013; the appellant deposited an amount of Rs.20,00,000/- on 17.09.2015 during the investigation; towards payment of excise duty liability.

2.1. On completing the investigation, a Show Cause Notice dated 07.10.2016, seeking to confirm demand excise duty of Rs.62,45,922, alongwith interest and penalty, covering the period April,2011 to April,2013, was issued. Subsequently, two more Show Cause Notices dated 14.08.2017 and 29.01.2019, demanding Excise Duty of Rs 1,11,72,972 and 63,65,904, along with interest and penalty, covering the periods 01.01.2016 to 31.12.2016&01.01.2017 to 30.06.2017, respectively were issued to the appellants. The Additional Commissioner, CGST, Delhi South passed a combined order, 24.04.2019, confirming the entire demand of Rs. 2,30,85,412, with a

penalty of Rs 55,46,536 under Section 11AC of Central Excise Act, 1944. On an appeal filed by the appellants, Commissioner (Appeals), vide impugned order dated 30.09.2019, upheld the order passed by the original authority.

3. Shri S.C. Kamra, Learned Counsel for the appellants submits that the appellants imported steel wire rope in running length and locks of various sizes from foreign suppliers; they procured Stud – 20 mm/45 mm /50mm thread, Anchor (fastener), Hang Fast Hooked stud and Ferrule (of aluminum) domestically and supplied to their customers; the appellant undertake the following processes:

- Loading of Roll of steel wire rope (twisted) onto the reeling machine and feeding the same into cutting and fusing machine.
- the cutting machine cuts the wire rope into the required length and fuses ends of cut wire ropes so that individual strands of wire rope are not separated.
- After fusing, crimping machine fixes one end of the wire into the stud /hooked stud.
- the wire length duly affixed with the stud is then rolled into bundle of generally 10 length and placed in a polybag.
- Accessories like anchors (fasteners), eye bolts, nuts, washers, ferrule etc. are also packed in separate polybag as per required quantity; 10 Locks generally are then packed in a separate polybag; each polybag has 10 locks and one setting key;
- the bundles of cut length, locks and other accessories are then packed in a cardboard box and packing list is pasted on the box; the material is dispatched to the customer in cardboard box.

4. Learned Counsel for the appellants submits that the appellant, vide their letter dated 11.01.2016, informed the Audit as well as Anti Evasion officers that they are not engaged in any manufacturing activity of wire rope hangers and do not incur any excise liability; however, due to wrong advice from their local consultant, the appellant erroneously obtained central excise registration from the Department in April, 2013 and started paying excise duty which was not payable at all; the appellant, vide letter dated 01.01.2016, conveyed that as the matter is pending with the Audit / Anti Evasion, that they decided to pay excise duty under protest till the issue gets resolved.

5. Learned Counsel for the appellants submits further that the activity undertaken by the appellant does not amount to manufacture and hence no excise duty is applicable; a new and different article must emerge having a distinctive name, character or use. He relies on Hon'ble Supreme Court's decision in the case of Delhi Cloth & General Mills Co. Ltd. 1977 (1) ELT J-199 (SC) and submits that *the word "manufacture" is generally understood to mean as "bringing into existence a new substance" and does not mean merely "to produce some change in a substance"*; The same was followed in South Bihar Sugar Mills Ltd 1978 (2) ELT J336 (SC); It was held in the case of Moti Laminates Pvt. Ltd 1995 (76) ELT 241 (SC) that held that though duty of excise is on the manufacture or production of goods, but the entire concept of bringing new commodity is linked with marketability; an article does not become goods in the common parlance unless by production or manufacture, something new and different is brought out which can be bought and sold; Hon'ble Supreme Court in the case

of J.G. Glass Industries Ltd. reported at 1998 (97) ELT 5 (S.C.) propounded a twofold test as to whether by the process a different commercial commodity comes into existence or whether the identity of the original commodity ceases to exist? and as to whether the commodity which was already in existence will serve no purpose but for the said process?

6. Learned Counsel submits in addition that the facts of the case of XL Telecom Limited 1999 (105) ELT 263 (A.P) substantially match with the facts of the appellant case, wherein the appellant are selling various bought out items alongwith cut, fused and crimped wire as wire rope hanger to the customer; all the items are packed in a single cardboard box; the identity of the individual items is not lost when sold as wire rope hanger; the individual items / bought out items are salable as such in the market; thus by placing different articles in a kit does not result into a manufacture of a new product by the name as "wire rope hanger"; the question before the Hon'ble AP High Court was whether the activity of putting together duty paid manufactured items and duty paid bought out items in one kit (Cable Jointing Kit) and packing them together amounted to "manufacture" of Cable Jointing Kit as a different product ?; Hon'ble High Court held that although by placing the articles in one kit, the kit has a distinct name known as cable jointing kit, there is no change in character and use of the articles placed in the kit. Except the test that the articles placed in the kit has a distinct name, the other tests of having distinct character and use are not satisfied and therefore the Hon'ble Andhra Pradesh High Court held that placing different articles in a kit as such did not amount to manufacture of a new product having distinct name, character and use. He relies on Tarpaulin International reported at

2010 (256) ELT 481 (SC); Servo-Med Industries Pvt. Ltd. Vs. CCE, Mumbai reported in 2015 (319) ELT 578 (SC). He submits that although the appellant placed reliance of the above judgment before the appellate authority, he refused to apply the said judgment holding that the hanger is the result of various processes of manufacture undertaken

7. Learned Counsel submits further, without prejudice to merit, that the appellant submits that excise duty demand of Rs. 55,46,536/-for the period 01.04.2011 to 30.04.2013 relating to 1<sup>st</sup>SCN dated 07.10.2016 is time barred and the same is not sustainable on limitation, He submits that it was alleged in the SCN that the appellant had manufactured and cleared excisable goods clandestinely and have not taken central excise registration with intent to evade payment of central excise duty; obtaining central excise registration after April,2013 strengthens their awareness and wilful involvement in violation of law and therefore, provisions of section 11A(4) are invocable. He relies on following cases and submits that as the case is made out on the basis of an Audit Objection and as no ingredients required to allege collusion suppression etc are existing and as the appellant has reasons to entertain a *bona fide* opinion extended period can not be invoked.

- *Pushpam Pharmaceuticals Company* 1995 (78) ELT 401 (SC).
- *AnandNishikawa Co. Ltd*[2005 \(188\) ELT 149\(SC\)](#)
- *Easland Combines, Coimbatore* 2003-VIL-13-SC-CE,
- *Uniworth Textiles Ltd*2013(288) ELT161(SC)
- *Continental Foundation Joint Venture* 2007 (216) ELT 177 (SC)
- *Bharat Hotels Limited* [2018 \(12\) GSTL 368 \(Delhi\)](#)
- *Mahanagar Telephone Nigam Ltd*2023-VIL-216-DEL-ST
- *M/s G.D. Goenka Private Limited* - 2023-VIL-798-CESTAT-DEL-ST.
- *M/s. Kalya Constructions Private Limited* [2023-VIL-1363-CESTAT-DEL-ST](#)

- *Reliance Industries Ltd. reported at 2023 (385) ELT 481 (SC)*

8. Shri Rakesh Agarwal, Learned Authorised Representative, reiterates the findings of OIO and OIA and submits that the common OIO passed in respect of three SCNs out of which two SCNs: dt 14.08.2017 for Rs 1,11,72,972/ and dt 29.01.2019 for Rs 63,65,904/- falls within normal period of limitation; Only SCN dt 07.10.2016 for Rs 62,32,089/- falls under extended period of limitation. He submits that the contention of the Counsel that process undertaken to manufacture 'Grippler Hanger System' does not amount to manufacture is absolutely without any basis; impugned goods were manufactured from steel wire and subjected to the number of processes by use of different input material, as enumerated in the synopsis submitted by the Counsel; after undertaking these processes, the impugned goods cleared under invoice describing them as 'Grippler Hanger System with corner saddle, Eyebolt'. He submits that thus, a new product with different identity & description, use and character came into existence after being subjected to processes, is a result of a process amount to manufacture; Hon'ble Supreme Court in a case of Gurukripa Resins Pvt Ltd 2011 (270) ELT 3 which was relied upon to submit that manufacture is an end result of one or more processes through which the original commodities are made to pass, cannot be applied to every case.

9. Learned Authorised Representative submits that the nature and extent of processing may vary from one case to another; there may be several stages of processing, different kinds of processing at each stage and with each process suffered, original commodity experiences a change but it is only when a change or series of changes that takes

the commodity to the point where commercially, it can no longer be regarded as an original commodity but instead is recognized as a new and distinct article that "manufacture" can be said to have taken place, he submits that it is trite law that in determining what constitutes manufacture no hard and fast rules of universal application can be devised and each case has to be decided on its own facts having regard to the context in which the term is used in the provision under consideration, but some broad parameters laid down in the earlier decisions dealing with the question could be applied to determine the question whether a particular process carried on in relation to the final product amounts to manufacture of that product. He submits that the processed undertaken and emergence of the new product with new name & description, use and character satisfies all parameters for manufacturability and leviability of C Ex duty,

10. Learned Authorised Representative submits that it was the appellant's contention that gross amount received from the buyer of the goods should be considered as Cum-duty-Price; therefore, it means that there is acceptance of duty payable; the benefit of cum duty price extended to the appellant in the OIO and duty demand reduced to Rs 55,46,536 from the original demand of Rs 62,32,089. He submits that the appellant took registration on 11.04.2013; they never declared the past clearances; it is logical to assume that the unit had no clearances prior to the day. They had never declared or disclosed their clearances prior to the date of registration; thus, the appellant suppressed their activity of manufacture & clearance; therefore, extended period was correctly invoked. He relies on ICICI Econet Internet & Technology Fund2021 (51) G.S.T.L. 36 (Tri. -



Bang.)M/s. Rajasthan Prime Steel Processing Center Pvt Ltd  
Miscellaneous Order No. 50037/2023 dated 30.01.2023 and submits  
that extended period was correctly invoked.

11. Heard Both sides and perused the records of the case. Two issues as to whether the appellants activity amounts to manufacture and whether extended period is invocable in the Show cause Notice dated 07.10.2016. We find that the appellants import steel wire rope in running length and locks of various sizes from foreign suppliers and procure Stud – 20 mm/45 mm /50mm thread, Anchor (fastener), Hang Fast Hooked stud and Ferrule (of aluminum) domestically and supplied to their customers. The appellants undertake the processes like loading of Roll of steel wire rope (twisted) onto the reeling machine and feeding the same into cutting and fusing machine; cutting the wire rope into the required length; fusing ends of cut wire ropes and fixing one end of the wire into the stud /hooked stud; packing in to polybags containing bundle of 10 lengths; placing the accessories like anchors (fasteners), eye bolts, nuts, washers, ferrule etc in the poly bag along with 10 Locks in a separate polybag; packing all in a cardboard box and pasting the packing list is on the box and dispatch of the material. The appellants submit that they are only cutting the wire and attaching with a clamp at one end and selling with other parts. The activity does not amount to manufacture.

12. The original authority holds that the appellant was manufacturing a new commodity a commodity different from its raw material and components; it is known in the market by a separate name "Gripple Hanger System", a fact not denied by the appellant; the functions and

use of Gripple HangerSystem is different from the raw material used; the new commodity "Gripple HangerSystem" is clearly marketable and is sold at higher value than the individual components put together; the commodity does not remain just steel wire rope with stud, it becomes a totally new commodity; manufacturing activity take place and a new product with new usage and marketability comes into existence. The appellate authority supplements by finding that a hanger is made of various articles such as galvanized wire, stud, eye bolts, fasteners, corner saddles, locks etc, which are sold as a composite item viz. "the Hanger", different from its components; it's a new product emerging with a new name, new commodity with a different characteristics and use; the hanger sold by the appellants comes into existence after a detailed process on different machines; the galvanized wire and hanger made by the appellant are not the same goods; galvanized wire is cut, fused and crimped alongwith accessories like eye bolts, studs, fasteners, locks etc and is cleared as single item viz. the hanger; the appellant issues only a single invoice for all these items wherein the price for all these items is charged as the "Hanger of a particular specification".

13. The appellants relied on certain cases laws as discussed above. We find that the gist of judicial pronouncements on the issue of manufacture is that

- Manufacture means bringing into existence a new product and not simply to produce some change.
- Processing is not equal to manufacture of an article; a new and different article must emerge having a distinctive name, character or use.
- The new product that emerges should be marketable.

13. We find that in the instant case the appellants import/procure steel wire rope. The steel wire rope (Twisted) is loaded onto a reeling machine; thereafter, the rope is fed into cutting and fusing machine; the ends are fused so that the strands do not come out/gets operated; the cut length of steel wire rope is then taken to crimping machine which fixes one end of the wire into the stud/hooks stud; the wire length affixed with stud is packed in 10 in a polybag; accessories like fasteners, eyebolts, nuts, washers, ferrule etc, are also packed in a separate polybag and both polybags are put into a carton. After seeing the process undertaken by the appellant, the question that has to be seen is as to whether the processes undertaken by the appellant have resulted in new product, with a distinct name, character or use and if the same is marketable.

14. Learned Authorised representative submits that the result and product emerging out of the processes undertaken by the appellant not only results in a new product but also the same is marketed. Learned Authorised representative further refers to a sample invoice issued by the appellants on 05.10.2011. The copy of a sample invoice is shown below:

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TIN No. 07170375428      RETAIL INVOICE / CASH MEMO / BILL

**GRIPPLE HANGER & JOINER SYSTEMS (INDIA) PVT. LTD.**  
 Wire Drawing, Tensioning & Hanger Systems  
 74, Poorvi Marg, Ground Floor, Vasant Vihar, New Delhi - 110057

Book No. 01  
 Bill No.: RI 051

Party : Alpha Star Trading Pvt. Ltd.  
 Address : New No. 145, (Old No. 77), Perambur Barcocks Road, Vepery, CHENNAI - 600007

Dated : 05-10-2011  
 Delivery Address : BTA Engg. I. E. 676, Signal System, Vikram Telecom (S&T Unit), Vrindavan, Vill. Bldg. 2A, Deyarabesana Halli, Marathalli Ring Road, Bangalore - 560033

Party TIN No. : 33750641237  
 Party CST No. : 838314(14.12.06)  
 Chsl : No. : RI-51  
 Narration: Gripl. Hangers System With Corner Saddle, Eyebolt, F

Job/Project: 0156/11-12  
 Challan Dt.: 5.10.2011

| S.N.                    | Description                               | Qty.   | Unit | Price  | Amount (Rs.) |
|-------------------------|-------------------------------------------|--------|------|--------|--------------|
| 1.                      | GHF No.2 (45Kg) Stud-Fast 2MGalv(M8)      | 14.00  | Nos. | 106.00 | 1,484.00     |
| 2.                      | GHF No.2 (45Kg) Stud-Fast-2.5M Galv(M8)   | 68.00  | Nos. | 111.80 | 7,612.40     |
| 3.                      | GHF No.2 (45Kg) Stud-Fast 3M Galv(M8)     | 161.00 | Nos. | 117.40 | 18,901.40    |
| 4.                      | GHF No.2 (45Kg) Stud-Fast 3.5MGalv(M8)    | 36.00  | Nos. | 122.90 | 4,424.40     |
| 5.                      | GHF No.2 (45Kg) Stud-Fast 4M Galv(M8)     | 53.00  | Nos. | 128.55 | 6,813.15     |
| 6.                      | GHF No.2 (45Kg) Stud-Fast 4.5M (M8)       | 2.00   | Nos. | 134.15 | 268.30       |
| 7.                      | GHF No.3 (90Kg) Stud-Fast 3.5M (M8)       | 7.00   | Nos. | 172.00 | 1,204.00     |
| 8.                      | GHF No.3 (90Kg) Stud-Fast 4MGalv(M8)      | 6.00   | Nos. | 179.50 | 1,077.00     |
| 9.                      | GHF No.4 (225Kg) Stud-Fast 4M Galv (M10)  | 4.00   | Nos. | 308.70 | 1,234.80     |
| 10.                     | GHF No.4 (225Kg) Stud-Fast 4.5M Galv(M10) | 3.00   | Nos. | 312.45 | 937.35       |
| Total                   |                                           |        |      |        | 43,944.80    |
| Add : Central Sales Tax |                                           |        |      |        | 678.94       |
| Total                   |                                           |        |      |        | 44,623.74    |
| Add : Rounded Off (+)   |                                           |        |      |        | 0.26         |
| Grand Total             |                                           |        |      |        | 44,624.00    |

Sale In Transit Against Form C  
 Rupees Forty four Thousand Eight Hundred Twenty Six Only

Terms & Conditions for Grippa Hanger & Joiner Systems (I) P Ltd.  
 1. Goods once sold will not be taken back.  
 2. Interest @ 24% p.a. will be charged if the payment is not made within the stipulated time.  
 3. Payment to be made by cash only.

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Authorised Signatory

15. On perusal of the above and other invoices available on record which is shown that the appellants are describing the product they are selling as Grippa Hanger System. Nowhere, it is mentioned that it is the wire cut to length. That being so, we find that the appellant's contention that the product emerging out of the processes undertaken by the appellant will not change the character or use of the impugned product. We find that the product is not being described and sold as wire but as a Grippa Hangers Systems albeit, with other parts like corner, saddle, eyebolt etc. Even if the arguments of the appellant

that they are not manufacturing entire hanger system, the unmissable fact that emerges is that the wire which is the raw material for the appellant, no longer remains a wire. It has in the least become a part of the hanger system. The same is marketable. Therefore, impugned product satisfies that twin test laid down by the Hon'ble Apex Court in the case of J G Glass Industries Ltd. (Supra). The case law of Tarpaulin International is not applicable in the instant case as the wire no longer remains a wire and becomes a hanger system or at least a part of the hanger system. If the impugned product remained a wire, the appellants could have very well described the same as wire with stud for hanger systems. However, the appellants having describe the same as hanger systems, have negated their own arguments.

16. Therefore, we are in agreement with the finding of the lower authority that the appellant was manufacturing a new commodity a commodity different from its raw material and components; it is known in the market by a separate name "Gripple Hanger System"; the functions and use of Gripple Hanger System is different from the raw material used; the new commodity "Gripple Hanger System" is clearly marketable and is sold at higher value than the individual components put together; the commodity does not remain just steel wire rope with stud, it becomes a totally new commodity; manufacturing activity take place and a new product with new usage and marketability comes into existence. the galvanized wire and hanger made by the appellant are not the same goods; galvanized wire is cut, fused and crimped along with accessories like eye bolts, studs, fasteners, locks etc and is cleared as single item viz. the hanger; the appellant issues only a single invoice for all these items

wherein the price for all these items is charged as the "Hanger of a particular specification". Therefore, we are of the considered opinion that the appellants have not made out the case in their favour on merits.

17. Coming to the issue of limitation, we find that in the impugned case, the fact of the non-payment of excise duty on clearance of finished goods from 01.05.2011 to 30.04.2013 came to the knowledge of the department while conducting the audit on 27.08.2015. We find that other than making bland averment that the appellants had manufactured and clandestinely cleared excisable goods without following the due process of law and that they have suppressed the facts of their manufacture and clearance of excisable goods over and above the exemption limit and that they have not taken central excise registration with an intent to evade payment of duty, the show cause notice does not bring out any positive act or omission on the part of the appellants, with cogent evidence, to show that the appellants had an intent to evade payment of duty. It has been held in a number of cases that extended period cannot be invoked if the show cause notice is issued on the basis of an audit objection. It has also been held in a catena of judgments that mere in action; mere non obtaining registration; mere non-payment of duty; mere non filing of returns cannot themselves be a reason in themselves to allege intent to evade payment of duty. We further find that the appellants submits that they had entertained a reasonable belief that the items manufactured by them are not excisable. We find that neither the show cause notice nor the impugned order contradicts the possibilities of entertaining such a reasonable belief by the appellants. Therefore, in the facts and

circumstances of the case, we are of the considered opinion that the Revenue has not made out a case for extension of the period of limitation in terms of Section 11A (4) of Central Excise Act, 1944. Therefore, we hold that duty demanded, along with penalty, for the extended period cannot be sustained. To that extent, the appeal succeeds, partly, on limitation.

18. In view of the above, the appeal is allowed partly on limitation i.e. the demand of excise duty of Rs. 55,46,536, for the period 01.04.2011 to 13.04.2013 is set aside; penalty of Rs. 55,46,536 is also set aside. Rest of the demand is confirmed and the impugned order is modified accordingly.

*(Order pronounced in the open Court on 05.06.2025)*

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

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

*Kailash*