CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 87131 of 2022

(Arising out of Order-in-Appeal No. NSK-EXCUS-000-APPL-113/2022-23 dated 27.07.2022 passed by the Commissioner (Appeals), CGST & Central Excise, Nashik.)

ACE Enterprises .... Appellant
Plot No. A-15/3/36, Suyarn Laghu Udyog Yojana,
MIDC Area, Ambad, Opp. Glaxo Ambad,
Ambad Adhunik Vasahat, Nashik – 422 010.

Versus

Commissioner of CGST & Central Excise, Nashik .... Respondent
Plot No. 155, Sector-P-34, NH Jaishtha & Vaishakh,
CIDCO, Nasik – 422 008 .

APPEARANCE:

Shri J.N. Tiwari, Advocate for the Appellant

Shri Ranjan Kumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86795/2025

Date of Hearing: 20.08.2025
Date of Decision: 17.11.2025

Per: M.M. Parthiban

This appeal has been filed by M/s ACE Enterprises, Nashik (herein after, referred to as 'the appellant'), assailing Order-in-Appeal No. NSK-EXCUS-000-APPL-113/2022-23 dated 27.07.2022 (herein after, referred to as 'the impugned order') passed by Commissioner (Appeals), CGST & Central Excise, Nashik.

2. Briefly stated, the facts of the case are that the appellant is engaged in manufacture of excisable goods i.e., automobile parts and seat covers classifiable under Central Excise Tariff Item 8708 2100 and 9101 9000 of the First Schedule to Central Excise Tariff Act, 1985. The appellant avail input duty credit of excise duty paid on inputs, capital goods and input tax credit of service tax paid on input services in terms of CENVAT Credit Rules, 2004. During the EA-2000 Audit conducted by the department on the records maintained by the appellant, it was noticed that the appellant

had cleared "Apron Front Body PVC Disposable" in 45 invoices over a period 2015-16 to June, 2017 for a total value of ₹60,16,500/- to M/s SE Blades Ltd./Suzlon Energy Limited, SEZ Units situated in Nadasal Village, Udupi, Karnataka, without payment of duty under Notification No. 58/2003-C.E. dated 22.07.2003. The Audit Officers noticed that the said clearances were neither reflected in ER-1 Returns nor were re-warehousing certificates produced to substantiate the claim for clearance without payment of duty to SEZ units. Accordingly, show-cause proceedings were initiated proposing demand of Central Excise duty of Rs.7,52,063/- along with interest and for imposition of equal amount of penalty on the appellant under Section 11AC of the Central Excise Act, 1944. On adjudication of the Show-Cause Notice (SCN) dated 11.06.2019, the original adjudicating authority confirmed the demand of duty and imposition of penalty vide Order-in-Original dated 30.09.2021. Being aggrieved with the said Order-in-Original, the appellant had preferred an appeal before the learned Commissioner (Appeals), who in passing the impugned order dated 27.07.2022, rejected the appeal filed by the appellant by upholding the original order. Feeling aggrieved with the impugned order, the appellant preferred this appeal before the Tribunal.

3.1 Learned Advocate appearing on behalf of the appellant had submitted that the entire demand of Central Excise Duty relates to 45 consignments covered by individual invoices during the period August 2015 to May 2017, which was supplied to SEZ unit for the earlier period i.e. October 2014 to March 2015. Similar supply made to the same SEZ unit i.e. M/s SE Blades Ltd., Udipi (Karnataka) was earlier audited by the Department for the period August 2015 to November 2015. However, no non-compliance issues, such as failure to follow the procedure prescribed under Notification No. 42/2001-CE (N.T.), non-preparation of ARE-1 was highlighted for denial of exemption. However, for the subsequent period alone, the audit had raised this issue for demand of duty and in adjudication of the same the duty demands were confirmed along with imposition of mandatory penalty by invoking extended period of time. It is claimed by the learned Advocate that the since the goods have been supplied to SEZ unit through proper documents such as invoice etc., and the same was duly recorded in their books of accounts, there is no grounds for invoking extended period of time and the adjudged demands are not sustainable.

3.2 He further relied on the order of the Tribunal in the case of *Trans Engineers India Private Limited Vs. Commissioner of Central Excise, Pune* – 2015 (40) S.T.R. 490 (Tri.-Mumbai) involving similar matter, wherein by considering the judgment of Hon'ble High Court of Karnataka in the case of *Commissioner Vs. MTR Foods Ltd. – 2012 (282) E.L.,T. 196 (Kar.)* the Tribunal has set aside the entire demand. He submitted that the ratio of the said case is applicable in the present case.

3.3 Learned Counsel also submitted that the issues in dispute in the present case viz., non-production of Form ARE-1, non-fulfilment of conditions prescribed in the notifications issued by the department under the Customs/Central Excise statues and thereby demanding excise duty on such clearances to SEZ unit, has been examined by the Tribunal and the Hon'ble High Court in a number of cases and it was held that the demand of duty is not sustainable, as the said decisions of the Tribunal/ High Court have also been upheld by the Hon'ble Supreme Court:

(i) *Eclerx Services Limited Vs. Commissioner of CGST & C.Ex., Navi Mumbai* – 2023 (72) G.S.T.L. 99 (Tri.-Mumbai) and upheld by the Hon'ble Supreme Court in Civil Appeal No.549 of 2023

(ii) *Cummins Turbo Technology Vs. Commissioner of Customs, Central Excise & Central Tax, Indore* – (2023) 12 Centax 334 (Tri.-Del.)

(iii) *GMR Aerospace Engineering Ltd. Vs. Union of India* – 2019 (312) G.S.T.L. 596 (A.P.) and upheld by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.22140 of 2019

4. On the other hand, learned Authorized Representative on behalf of Revenue submitted that the procedure prescribed as per the Board Circular No. 29/2016-Cus. dated 27.12.2006 has not been complied with by the appellant. This has been discussed elaborately in Paragraphs 9 & 10 of the order-in-original which was also confirmed in the impugned order. Therefore, he prayed that the impugned order is correct and the appeal filed by the appellant is liable to be rejected.

5. Heard both sides and perused the records of the case. I have also perused the additional written submissions presented in the form of paper books for this case.

6.1 The issue involved in this appeal is to determine the following:

(i) whether the appellant is eligible to exemption from payment of central excise duty in respect of disputed clearances of goods, provided to Special Economic Zones (SEZ) units, under the provisions of Central Excise Act, 1944; Special Economic Zones (SEZ) Act, 2005 and the rules made thereunder read with exemption notifications, along with various conditions laid down in respective notifications, issued in this regard, or otherwise; and

(ii) whether the appellant is liable to pay adjudged demands of central excise duty under Section 11A ibid by invoking extended period of limitation and penalty imposed under Section 11AC ibid or otherwise.

6.2 In adjudication of the above issue, the original authority had confirmed the demand of excise duty on the basis that the procedure prescribed as set out in Notification No.42/2001-C.E. (N.T.) dated 26.06.2001 has not been followed by the appellant, and the documents submitted by them cannot replace the requirement of ARE-1 for allowing exemption from payment of duty on such clearances made to SEZ Unit. These issues were also examined by the learned Commissioner (Appeals) and he had on the basis of his findings in the impugned order, had rejected the appeal filed by the appellant by upholding the order of the original authority. The relevant paragraphs of the order of the original authority is extracted and given below:

"9. In the instant case the assessee had cleared the goods without payment of duty in the light of the above circular, in the event of the assessee not claiming any export entitlements they were required to follow the procedure as set out in NotificationNo.42/2001-C.E. (N.T.) dated 26.06.2001 as amended, wherein there are required to furnish a General Bond or Letter of Undertaking to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, clear the goods under ARE-1 and submit proof of export within 45 days from the date of export. It is seen that the assessee had not followed any of the procedure set out in the circular. It is further clarified in the circular that in the event of nonreceipt of proof of export within the stipulated period, the liability of payment of duty, fine, penalty and interest relating thereto, would lie with the supplier in DTA, in addition to any other liability under any law in force.

10. The primary document required in case of clearance of goods from DTA unit to your unit in SEZ is ARE-1 and Letter of Undertaking. The assessee has submitted copies of Goods Consignment Notes, Ledger and the letter from M/s Suzlon Energy Ltd. as the assessee has not complied with the procedure required as per the circular it is obvious that the no such document has been issued. In this scenario the documents submitted by the assessee cannot take the place of ARE-1 which is the

prescribed document for such clearances. Thus it is evident that the assessee has not made any compliance of the procedure set in the said circular.

11. The plea of the assessee that non-compliance of the Notification was a procedural lapse cannot be accepted. When the procedure has been prescribed by the government for claiming certain benefits, it is mandatory on the part of the beneficiary to comply with the same…. Thus where substantial compliance is required the assessee cannot claim procedural lapse without even making any attempt to fulfil the same.

In this regard Hon'ble Supreme Court in the case of Commissioner of C. Ex. New Delhi Vs. Hari Chand Shri Gopal reported in 2010 (260) E.L.T. 3 (S.C.) has held as under…..It is apparent from the facts of the case that the compliance to the circular was the clear prerequisite, which the assessee has failed to adhere and therefore, the clearance made by them is in contravention of Section 3 of the Central Excise, 1944 read with Rule 11 and 12 of the Central Excise Rules, 2002.

12. It is further alleged that they failed to declare such clearance of goods in the periodical return i.e., ER-1. The assessee has not made any submission in this regard. The clearances made by the assessee without intimation in any form to the Department and by not following the procedure as laid down for such clearances they have intentionally suppressed facts from the knowledge of the Department with an intention to evade the duty. Thus having contravened the aforesaid provisions extended period is no couple and the amount of Rs.7,52,063/- is liable to be recovered under Section 11A(4) of the Act along with interest leviable under section 11AA of the Act ibid and they are liable of penalty under the provisions of section 11AC of the Act ibid."

The relevant paragraphs of the impugned order in upholding the order of the original authority, is also extracted and given below:

"7. The moot issue that needs to be decided is whether the appellant is entitled to the benefit of exemption on impugned goods claimed to have been cleared to M/s ACE, a SEZ unit (incorrectly shown as ACE instead of SE Blades Ltd./Suzlon Energy Limited) during the material period i.e. 2015-16 to June, 2017. It is the departmental charge that the appellant had cleared the said material to M/s ACE but did not show the same in their ER-1 return…… Upon going through the rival contentions I find that it is incontrovertible that the Applicant had not followed the procedure laid down in the circular dated 27.12.2006. Even though an excel sheet has been provided for the goods cleared and received in the SEZ unit there is apparently no correlation between the goods allegedly cleared without payment of duty to the SEZ unit and this excel sheet. Further the lower authority has also placed reliance on the decision of the Hon'ble Supreme Court in the case of Harichand Shri Gopal reported at 2010 (260) ELT 3(SC) whereby it was made clear by the Hon'ble Court that the mere attempted compliance may not be sufficient but the actual compliance of the same is required. On going through excel sheet produced by the appellant it is seen that there are 45 invoices issued during the material period cleared to the SEZ unit. It is not understood or rather intriguing that such huge clearances were not reflected in the ER-1 Return. By going through the sheer volume of the clearances it cannot be accepted that the appellant had merely erred in not showing the

clearances in ER-1 Return. The arguments put forth by the appellant are afterthought and an attempt to cover up the shortcomings. The SEZ units, as per the admission of the appellant are closed and there are no chance of getting the verification done, In totality I am not inclined to accept the plea of the appellant as they failed to defend their end. There is no evidence on record to interfere with the findings of the lower authority. The appeal does not succeed."

From the above it transpires that the learned Commissioner (Appeals) had concluded that the appellants are not eligible to exemption from payment of central excise duty in respect of clearances made to SEZ units, as they had not fulfilled the conditions of the notification, not obtained necessary approval from concerned authorities, and having not mentioned the details in the ER-1 returns filed with the department.

7. In order to appreciate the above issues under dispute, the relevant legal provisions of the SEZ Act, 2005 and SEZ Rules, 2006, Notification No. 58/2003-C.E. dated 22.07.2003 and CBEC circular dated 27.12.2006 issued on rescinding of such notification, which is relevant to the dispute, are extracted and herein given below for ease of reference:

"Special Economic Zones Act, 2005 [28 of 2005]

An Act to provide for the establishment, development and management of the Special Economic Zones for the promotion of exports and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. *(1) This Act may be called the Special Economic Zones Act, 2005.*

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates† may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Exemption from taxes, duties or cess.

7. *Any goods or services exported out of, or imported into, or procured from the Domestic Tariff Area by,—*
(i) a Unit in a Special Economic Zone; or
(ii) a Developer.
shall, subject to such terms, conditions and limitations, as may be prescribed, be exempt from the payment of taxes, duties or cess under all enactments specified in the First Schedule.

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CHAPTER VI

SPECIAL FISCAL PROVISIONS FOR SPECIAL ECONOMIC ZONES

Exemptions, drawbacks and concessions to every Developer and entrepreneur.

26. *(1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely:—*

(a) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods imported into, or services provided in, a Special Economic Zone or a Unit, to carry on the authorised operations by the Developer or entrepreneur;

(b) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit, to any place outside India;

(c) ***exemption from any duty of excise, under the Central Excise Act, 1944 (1 of 1944) or the Central Excise Tariff Act, 1985*** *(5 of 1986) or any other law for the time being in force, on goods brought* ***from Domestic Tariff Area to a Special Economic Zone or Unit****, to carry on the authorised operations by the Developer or entrepreneur;*

(d) drawback or such other benefits as may be admissible from time to time on goods brought or services provided from the Domestic Tariff Area into a Special Economic Zone or Unit or services provided in a Special Economic Zone or Unit by the service providers located outside India to carry on the authorised operations by the Developer or entrepreneur;

(e) exemption from service tax under Chapter V of the Finance Act, 1994 (32 of 1994) on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone;

(f) exemption from the securities transaction tax leviable under section 98 of the Finance (No. 2) Act, 2004 (23 of 2004) in case the taxable securities transactions are entered into by a non-resident through the International Financial Services Centre;

(g) exemption from the levy of taxes on the sale or purchase of goods other than newspapers under the Central Sales Tax Act, 1956 (74 of 1956) if such goods are meant to carry on the authorised operations by the Developer or entrepreneur.

(2) The Central Government may prescribe the manner in which, and the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub-section (1).

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Act to have overriding effect.

51. *The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."*

SEZ Rules, 2006

*"10. **Permission for procurement of items**. - The Approval Committee may permit goods and services to carry on the operations authorized under rule 9:*

Provided that for the Special Economic Zones set up by the Central Government, the goods and services required for the authorized operations may be approved by the Board:

Provided further that exemptions, drawbacks and concessions on the goods and services allowed to a Developer or Co-developer, as the case may be, shall also be available to the contractors including sub-contractors appointed by such Developer or Codeveloper, and all the documents in such cases shall bear the name of the Developer or Co-developer along with the contractor or sub-contractor and these shall be filed jointly in the name of the Developer or Co-developer and the contractor or sub- contractor, as the case may be:

Provided also that the Developer or Co-developer, as the case may be, or the Special Economic Zone Unit shall be responsible and liable for proper utilization of such goods in all cases."

Notification No. 58/2003-C.E., dated 22-7-2003
Exemption to goods supplied to units in SEZ

"In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all excisable goods (hereinafter referred to as the said goods) specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced or manufactured by a unit (hereinafter referred to as the unit) when supplied to units in special economic zone, from whole of the duty of excise leviable thereon under section 3 of the said Central Excise Act, and the additional duty of excise leviable under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), subject to the following conditions, namely :-

(i) that such goods are removed from the factory or warehouse, as the case may be, in accordance with the procedure specified in rule 11 of the Central Excise Rules, 2002;

(ii) that the said goods are supplied against a domestic procurement certificate issued to the special economic zone unit by customs authorities in the special economic zone;

(iii) that the proof of export, duly certified by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs in the special economic zone, is submitted to the officer-in-charge of the Central Excise range concerned, within a period of one month from the date of removal of such goods from the place of manufacture or production.

2. This notification shall come into force on the 15th day of August, 2003.

Explanation. - For the purposes of this notification, the special economic zone means the special economic zones as specified in the notification issued under section 76A of the Customs Act, 1962 (52 of 1962)."

Circular No. 29/2006-Cus., dated 27-12-2006

F. No. DGEP/SEZ/331/2006

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject : Implementation of Special Economic Zone Act, 2005 and Special Economic Zone Rules, 2006 - Regarding.

Attention is invited to the Notification No. S.O. 196(E), dated 10-2-06 issued vide F/1/7/2005 EPZ, dated 10-2-2006, by the Department of Commerce, Ministry of Commerce & Industry, Government of India on the above subject. The said notification appoints 10th February 2006 as the date on which Special Economic Zone Act, 2005 (excluding Sections 20 to 24 and Sections 31 to 41) has come into force. Further, in exercise of the powers conferred under Section 55 of the Special Economic Zones Act, 2005, (hereinafter referred to as the Act) the Special Economic Zones Rules, 2006 (hereinafter referred to as the Rules) have been notified vide Notification F/1/7/2005 EPZ, dated 10-2-2006 w.e.f. 10-2-2006.

2. Following the enactment of Act and the Rules, certain representations have been received from the trade regarding implementation of Rule 30 relating to procurement of goods by Special Economic Zones (SEZs) from the Domestic Tariff Area (DTA). It has been felt necessary to issue instructions, as detailed under, for proper implementation of the said Rule. Department of Commerce has also issued Instruction No. 6 dated 3rd August, 2006 on the said issue.

3. The important provisions of the Act & the Rules having a bearing on procurement of goods from DTA by SEZ units and SEZ developers for their authorized operations are listed below :-

(a) Under Section 2(m) of the Act, supplying goods or providing services, from DTA to a SEZ unit or a SEZ developer, has been defined to constitute "export".

(b) Section 51 of the Act provides that the said Act shall have effect in case of any inconsistency with the provisions contained in any other law for the time being in force, etc.,

(c) Sub-section (1) of Section 52 of the Act provides that w.e.f. 14-3-2006, the provisions contained in Chapter XA of the Customs Act, 1962, the SEZ Rules, 2003 and the SEZ (Customs Procedure) Regulations, 2003 made thereunder, shall not apply to Special Economic Zones; and

(d) Section 53 of the Act provides that w.e.f 10-2-2006, a Special Economic Zone shall be deemed to be territory outside the customs territory of India for the purposes of undertaking the authorized operations.

4. In the light of the aforesaid provisions, ***with effect from 14-3-2006, Chapter XA of the Customs Act, 1962, the SEZ Rules, 2003, the SEZ (Customs Procedure) Regulations, 2003, and the exemption Notification No. 58/2003-C.E., dated 22-7-2003 regarding the supply of goods to SEZ units & SEZ developers have***

become redundant. Consequently the supplies from DTA to a SEZ unit, or to SEZ developers for their authorized operations inside a SEZ notified under sub-section (1) of Section 4 of the Act, may be treated as in the nature of exports.

5. The existing SEZs, i.e., the ones notified under Section 76A of Chapter XA of the Customs Act, 1962 shall be deemed to have been notified under Section 4 of the Act. ***Supplies from DTA to SEZ shall be exempt from payment of any Central Excise duty under Rule 19 of Central Excise Rules, 2002.*** *Similarly, such supplies shall be eligible for claim of rebate under Rule 18 of Central Excise Rules, 2002 subject to the fulfillment of conditions laid thereunder. The provisions relating to exports under Central Excise Act, 1944 and rules made thereunder may be applied, mutatis mutandis, in case of procurement by SEZ units & SEZ developer from DTA for their authorized operations.*

6. The provisions of Regulation 10 of the Special Economic Zone (Custom Procedure) Regulation, 2003 for requirement of issuance of Domestic Procurement Certificate (DPC) have been dispensed with in the SEZ Rules, 2006. Now the procedure for procurements of goods from Domestic Tariff Area to a SEZ Developer or a unit would be governed by the provisions of Rule 30 of the SEZ Rules, 2006, and the movement of goods from the place of manufacture to the SEZ shall be (i) on the basis of ARE-1 (in cases where export entitlements are not availed); (ii) on the basis of ARE-1 and Bill of Export (in cases where export entitlements are availed) and against a general Bond or Letter of Undertaking, specified in Annexure-I and Annexure-II, under Notification No. 42/2001-C.E. (N.T.), dated 26-6-2001 as amended, and furnished by the DTA supplier to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise. In the event of non-receipt of proof of export in form of endorsement, regarding admittance of goods in full into the Special Economic Zone, by the Authorized Officer of Customs posted in the SEZ, on ARE-1 and/or Bill of Export, as the case may be, within a period of 45 days, the duty should be demanded from the DTA supplier by the jurisdictional Central Excise Officer as is done in the case of non-availability of proof of export for normal export of goods, without payment of Central Excise duty, under Rule 19 of Central Excise Rules, 2002.

7. Clearance of goods at the place of dispatch, i.e., at the factory or warehouse may be, at the option of the exporter (DTA Supplier), either 'under examination and sealing of goods by the Central Excise officer', or, 'under self- sealing and self examination', as is applicable in the case of export of goods under Rule 18 or 19 of Central Excise Rules, 2002. The manner of disposal of copies of ARE-1, monitoring of proof of exports, demand of duty in case of non-submission of proof of exports, etc. shall be the same as is applicable in case of exports made under Rule 18 or Rule 19 of the Central Excise Rules, 2002. The DTA supplier shall ensure the bona fides of the SEZ unit or SEZ developer to whom duty free goods are being supplied. In the event of non-receipt of proof of export due to loss of goods in transit due to theft, illegal diversion or any other reason, or in the event of proof of export being found to be fraudulent, the liability of payment of duty, fine, penalty and interest relating thereto, would lie with the supplier in DTA, in addition to any other liability under any law in force."

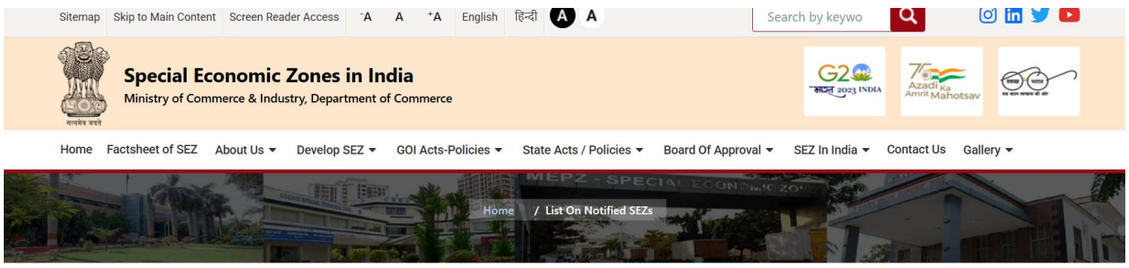
(emphasis supplied)

8.1 I also find that the legal provisions relating to Special Economic Zones (SEZ) was initially provided under the Customs Act, 1962 vide Chapter X-A under Sections 76A to 76N ibid, which was omitted with effect from 11.05.2007 under Section 90 of the Finance Act, 2007 (Act 22 of 2007), upon bringing into force a separate legislation governing the SEZs i.e., SEZ Act, 2005.

8.2 On plain reading of the above said legal provisions of the SEZ Act, 2005 and the Customs Act, 1962, it transpires that the Chapter X-A providing for special provisions relating to SEZ were omitted or removed from the Customs Act, 1962 consequent to the Parliament enacting a special legislation viz., SEZ Act, 2005. Moreover, in order to provide more clarity and purpose of such separate legislation for SEZ, a specific Section 51 of the said Act of 2005 has provided a *non obstante* clause stating that the provisions of SEZ Act, 2005 shall have the overriding effect, notwithstanding anything inconsistent therewith, if any, contained in any other law for the time being in force. Thus, if an exemption is provided under Section 26 of the SEZ Act, 2005, then the same cannot be taken away by prescribing certain conditions elsewhere in any other law or notification issued thereunder, which is contrary to the legal provisions made therein. I also find that clause (c) of sub-section (1) of Section 26 ibid provide specifically exemption from payment of Central Excise duty when the excisable goods are cleared from Domestic Tariff Area to a Special Economic Zone or Unit. Therefore, in such a situation the exemption granted by the provisions of SEZ Act, 2005 cannot be taken away by non-compliance with the conditions of a notification as decided by the authorities below. Further, the clarification issued by Central Board of Excise & Customs (CBEC) in Circular No.29/2006-Cus., dated 27.12.2006 specifically direct the field formations for compliance with the changes brought in with the bringing into effect the SEZ Act. It specifically state that supplies from DTA to SEZ shall be exempt from payment of any Central Excise duty under Rule 19 of Central Excise Rules, 2002, since the exemption Notification No. 58/2003-C.E., dated 22-7-2003 regarding the supply of goods to SEZ units & SEZ developers have become redundant. It further states that such supplies from DTA to a SEZ unit, or to SEZ developers, may be treated as in the nature of exports. Thus, it flows from the CBEC circular that there is no requirement for payment central excise duty on supply of goods from DTA to SEZ unit with the introduction of legal changes discussed above. Therefore, the conclusions arrived at by the

impugned order confirming demands of excise duty on clearances made from DTA to SEZ unit in the pretext of not following the conditions of notifications No. 58/2003-C.E., dated 22.07.2003; No.42/2001-C.E. (N.T.) dated 26.06.2001 and/or the Circular No.29/2006-Cus., dated 27.12.2006 does not stand the legal scrutiny.

8.3 Furthermore, I also find that the learned Commissioner (Appeals) had come to the conclusion that the SEZ units were closed and there is no possibility to verify the receipt of goods in the SEZ unit which were cleared by the appellant from his factory. On perusal of the database maintained by the Ministry of Commerce & Industry, Department of Commerce, list of SEZ notified and which are functioning as on 30.06.2025 are given in their official website. The said list also includes the SEZ in the present case whose name has been revised, but the earlier name has also been mentioned at Serial No.119 where the SEZ units mentioned in the present case were located. The extract of the same is given below:



List on Notified SEZs

S.No	Title	Date	Document
1	List of Notified SEZs as on 30.06.2025	01-07-2025	Download (**Format:** PDF,**Language:** English ,**Size:** 492.11 KB)
2	List of Notified SEZs as on 18.03.2025	18-03-2025	Download (**Format:** PDF,**Language:** English ,**Size:** 438.01 KB)

List of Notified SEZs (As on 30.06.2025)

Special Economic Zones established by Central Government

	Sl. No.	Name of the SEZ	Location	Type	State code	Total Area (Hectares)	Date of Notification
119	16	Aspen Infra Padubidri Private Limited (AIPPL) [Formerly Aspen Infrastructures Limited (Synefra Engineering construction Ltd. (Suzlon Infrastrucutre Ltd.)]	Nadasalu, Nandikooru, Polimaru and Hejamadi villagesin Udupi Taluk, Karnataka	Engineering	KN	259.32622 (de-notified 58.82362/102.36382) = 98.13878	11th September, 2007/17th May, 2016/9th August, 2016
120	17	Mangalore SEZ	Baikampady Near	Multi Product	KN	587.021/ de	6th November

Further, the appellant had furnished the following details in all 45 consignments supplied to SEZ viz., copies of invoices indicating DTA supply to SEZ, lorry receipts for transportation of goods from appellant's factory premises to SEZ unit, stamping of receipt of goods in SEZ with no. & date, SEZ Gate entry no. & date, SEZ online entry no. & date, SEZ exit/vehicle out no. & date providing the complete chain of movement of goods

ensuring the fact that the supplies made from DTA to SEZ have been duly received in the case of appellants. Therefore, I find that the appellant had substantially complied with the procedural requirement of establishing the receipt of goods in SEZ unit and therefore there is no requirement of verifying the existence of SEZ units at a later stage. Further, such substantial compliance by the appellant in the present case also distinguish the case law citation of the Hon'ble Supreme Court in *Harichand Shri Gopal* case (supra) and it is not relevant to the present factual matrix of the case.

9.1 In this regard, I find that the dispute in respect of similar issue relating to exemption from payment of service tax in respect of services provided to SEZ have been dealt with in the case of *GMR Aerospace Engineering Limited* (supra) by the Hon'ble Andhra Pradesh High Court by holding that standalone exemptions under Section SEZ law are not subject to provisions of any other law, including Finance Act, 1994, and therefore such exemption cannot be denied for mere non-filing forms, as these are not required under SEZ law. The relevant paragraphs of order of the Hon'ble High Court in the above case is extracted and given below:

> ***"18.*** *In the light of the above admitted facts, the only question that arises for consideration is as to whether the availability of exemptions under Section 26 of the SEZ Act would depend not only upon the terms and conditions prescribed under Section 26(2), but also upon the terms and conditions prescribed in the notifications issued under various enactments such as Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1944, Central Excise Tariff Act, 1985, Finance Act, 1994 and Central Sales Tax Act, 1956 etc., enlisted in clauses (a) to (g) of sub-section (1) of Section 26 of the Act.*
>
> ***19.*** *The only argument of Smt. Sundari R. Pisupati, Learned Senior Standing Counsel for the Department is that since SEZ Act, 2005 and the Rules framed thereunder do not constitute a self-contained Code, the availability of exemptions under Section 26 of the Act would certainly depend upon the terms and conditions stipulated in the notifications issued under the respective enactments indicated in clauses (a) to (g) of sub-section (1) of Section 26. But, the contention of Mr. S. Niranjan Reddy, Learned Senior Counsel appearing for the petitioners, is that there is no scope for restricting Section 26, especially when the SEZ Act, 2005 which is also a parliamentary enactment of a later date, is given an overriding effect under Section 51 of the Act.*
>
> ***20.*** *In order to find an answer to this question, one must understand in conceptual terms, what a Special Economic Zone is. As pointed out by the Madras High Court in Nokia India Sales, a SEZ (1) is a territory outside the Customs Territory of India for the purpose of undertaking authorized operations and (2) is deemed to be a port, in land container depot, land stations and land customs station under Section 7 of the Customs Act, 1962. This is by virtue of Section 53 of SEZ Act, 2005. Keeping this core concept in mind, let us now go to the provisions of the Act. Section 7 of the Act exempts from payment of taxes, duties or cess, under all*

enactments specified in the First Schedule, any goods or services exported out of or imported into or procured from Domestic Tariff Area, by a unit in a SEZ or a developer. But Finance Act, 1994 is not one of the enactments specified in the First Schedule. Therefore, Section 7 has no application to the case on hand.

21. *However, Section 26(1) specifically allows exemptions, drawbacks and concessions to every developer and entrepreneur. These exemptions are confined to the enactments listed in clauses (a), (b), (c), (e), (f) and (g). Section 26 in its entirety reads as follows :*

> ***"26. Exemptions, drawbacks and concessions to every Developer and entrepreneur. -***
>
> *(1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely :-*
>
> *(a) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods imported into, or service provided in, a Special Economic Zone or a Unit, to carry on the authorised operations by the Developer or entrepreneur :*
>
> *(b) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit, to any place outside Indict;*
>
> *(c) exemption from any duty of excise, under the Central Excise Act, 1944 (1 of 1944) or the Central Excise Tariff Act, 1985 (5 of 1986) or any other law for the time being in force, on goods brought from Domestic Tariff Area to a Special Economic Zone or Unit, to carry on the authorised operations by the Developer or entrepreneur;*
>
> *(d) drawback or such other benefits as may be admissible from time to time on goods brought or services provided from the Domestic Tariff Area into a Special Economic Zone or Unit or services provided in a Special Economic Zone or Unit by the service providers located outside India to carry on the authorised operations by the Developer or entrepreneur;*
>
> *(e) exemption from service tax under Chapter V of the Finance Act, 1994 (32 of 1994) on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone;*
>
> *(f) exemption from the securities transaction tax leviable under section 98 of the Finance (No. 2) Act, 2004 (23 of 2004) in case the taxable securities transactions are entered into by a non-resident through the International Financial Services Centre;*
>
> *(g) exemption from the levy of taxes on the sale or purchase of goods other than newspapers under the Central Sales Tax Act, 1956 (74 of 1956) if such goods are meant to carry on the authorised operations by the Developer or entrepreneur.*
>
> *(2) The Central Government may prescribe the manner in which, and the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub-section (1)."*

22. *It may be noted that sub-section (1) of Section 26 begins with the words "subject to the provisions of sub-section (2)". Sub-section (2) authorizes the Central Government to prescribe the manner in which and the terms and conditions subject to which exemptions shall be granted to the Developer or entrepreneur under sub-section (1).*

23. *As rightly pointed out by Sri S. Niranjan Reddy, Learned Senior Counsel appearing for the petitioner, the word "prescribe" appearing in sub-section (2) of Section 26 has to be understood with reference to the*

definition of the word "prescribed" appearing in Section 2(w) of the SEZ Act, 2005. Section 2(w) of the Act reads as follows :
"prescribed" means prescribed by rules made by the Central Government under this Act."

24. *Therefore, the terms and conditions subject to which the exemptions are to be granted under sub-section (1) of Section 26 should be prescribed by the Rules made by the Central Government under the SEZ Act, 2005. Being conscious of this fact, the executive has incorporated Rule 22 in the SEZ Rules, 2006 issued in exercise of the power conferred by Section 55 of the SEZ Act. It is not necessary to extract Rule 22, since there is no dispute about the fact (1) that the petitioners have complied with the prescriptions contained in Rule 22 of the SEZ Rules, 2006 and (2) that Rule 22 of the SEZ Rules, 2006 does not stipulate the filing of forms A1 and A2 as prescribed in the three notifications issued under Section 93 of the Finance Act, 1994.*

25. *In other words, the 5th respondent does not dispute the fact that the petitioners have fulfilled the terms and conditions stipulated in Rule 22 of the SEZ Rules, 2006 and that if those Rules are considered on a stand alone basis, the petitioners would be entitled to the exemptions.*

26. *Having taken note of the provisions of the SEZ Act and Rules, let us have a look at the Finance Act and the relevant notifications. Section 93 of the Finance Act, 1994 reads as follows :*

> ***"93. Power to grant exemption from service tax. -***
> *(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.*
> *(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order."*

27. *A look at Section 93 of the Finance Act, 1994 would show that it has nothing to do with the units located in a SEZ. Section 93 is a general power of exemption available for the benefit of all and sundry. In fact, Section 93 was substituted in its present form by Finance (No. 2) Act, 1998 with effect from 16-10-1998. The notifications issued under Section 93 may cover taxable services of any description. Even the units located outside a SEZ are entitled to the benefit of the notifications issued under Section 93 of the Finance Act, 1994, if the conditions stipulated in those notifications are fulfilled.*

28. *The SEZ Act, 2005 is also a parliamentary enactment issued later in point of time to the Finance Act, 1994 and Section 51 of the Act declares that the provisions of the SEZ Act, 2005 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Section 51 reads as follows :*

> ***"51. Act to have overriding effect.*** *- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."*

29. *The contention of Smt. Sundari R. Pisupati, Learned Senior Standing Counsel is that there is no inconsistency between (i) the terms and conditions prescribed in the notifications issued under Section 93 of the Finance Act, 1994 and (ii) the terms and conditions prescribed in Rules 22 and 31 of the SEZ Rules, 2006, and that therefore, Section 51 of the SEZ Act, 2005 cannot be pressed into service. But this contention is unacceptable.*

30. *This is for the reason that Section 26(1) of the SEZ Act made the entitlement to certain exemptions subject to provisions of sub-section (2) of Section 26. Section 26(1) did not make the entitlement of a Developer to certain exemptions, subject to the provisions of something else other than the provisions of sub-section (2). Therefore, the 5th respondent cannot read Section 26(1) to mean that the exemptions listed therein are (1) subject to the provisions of sub-section (2) of Section 26, and (2) also subject to the terms and conditions prescribed in the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944, the Central Tariff Act, 1985 and the Finance Act, 1994. This is especially so, since the authority of the Central Government to prescribe the terms and conditions subject to which exemptions may be granted under Section 26(1), flows only out of sub-section (2) of Section 26. The word "prescribe" is verb. Generally no enactment defines the word "prescribe". But the SEZ Act 2005 defines the word "prescribe" under Section 2(w) to mean the rules framed by the Central Government under the SEZ Act, 2005. The space is also not left unoccupied, as the Central Government has issued a set of Rules known as "the Special Economic Zones Rules, 2006", wherein the Central Government has prescribed the terms and conditions for grant of exemptions under Rule 22. Therefore, there is no question of comparing the terms and conditions prescribed in Rule 22 with the terms and conditions prescribed in the notifications issued under any one of five enactments listed in Section 26(1) to find out whether there was any inconsistency.*

31. *Support can be drawn for the above interpretation, from Section 50 of the SEZ Act, 2005 also. Section 50 of the SEZ Act, 2005 enables State Governments to enact laws for the grant of exemption from state taxes, levies and duties. Since a Central Law cannot provide for exemption from the levy of State taxes, Section 50 merely enables the State Governments to enact laws.*

32. *A combined reading of Sections 7, 26 and 50 of the SEZ Act, 2005, would show that SEZ Act, 2005 speaks of three different types of exemptions. They are, -*

(1) exemption from payment of taxes under the enactments specified in the First Schedule, in respect of goods and services exported out of, or imported into or procured from a DTA by a unit in a Special Economic Zone or a Developer under Section 7,

(2) exemption from payment of duties under the Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1994, Central Excise Tariff Act, 1985, Finance Act, 1994, Finance (No. 2) Act, 2004 and Central Sales Tax Act, 1956, covered by Section 26 (1); and

(3) exemption from payment of state taxes, levies and duties covered by Section 50, provided there is a state enactment to the said effect.

33. *The word "prescribe" is used in the present tense in Section 26(2) and in the past tense in Section 7. Both will have the same meaning as assigned to the word under Section 2(w). The moment a set of rules is issued either in respect of matters covered by Section 7 or in respect of matters covered by Section 26(1), there is no scope for invoking any other law for imposing any other condition.*

34. *The benefit of exemptions granted under the notifications issued under Section 93 of the Finance Act, 1994, are available to any one and not necessarily confined to a unit in a special economic zone. Section 93 of the Finance Act, in that sense is a general power of exemption available in respect of all taxable services. But, Section 26(1) is a special power of exemption under a special enactment dealing with a unit in a special economic zone. Therefore, the notifications issued under Section 93 of the Finance Act, 1994 cannot be pressed into service for finding out whether a unit in a SEZ qualifies for exemption or not.*

35. *For driving home her contention that SEZ Act, 2005 and the rules framed thereunder do not constitute a complete Code in themselves, Smt. Sundari R. Pispuati, Learned Senior Standing Counsel relied upon two decisions of the Supreme Court and one decision of the Madras High Court. In Ravula Subba Rao v. Commissioner of Income Tax, Madras - AIR 1956 SC 604 relied upon by the Learned Senior Standing Counsel, the question that arose before the Supreme Court was whether the requirement under the Income Tax Rules (as they existed then) for all partners to sign an application for registration personally, would exclude the applicability of the Powers of Attorney Act, 1882, which empowers every agent to do what the principal is capable of doing. The Supreme Court held in that context that the Income Tax Act is a complete Code in itself and that therefore, the question of importing the Powers of Attorney Act, would not arise.*

36. *In Girnar Traders v. State of Maharashtra - 2011 (3) SCC 1, relied upon by Smt. Sundari R. Pisupati, Learned Senior Standing Counsel, the Supreme Court considered in detail the question as to when the provisions of a statute could be construed as a self-contained code. It was pointed out in the said judgment that if complete machinery or mechanism is not provided under an Act to ensure effective execution of the functions assigned therein, with due protection of the rights of the interested persons, within the framework of law, it may not be possible for the court to hold that such a statute is a self-contained code. But, the Court also pointed out in the said decision that it is not possible to State parameters of universal application, which could determine with precision as to whether an Act is a self-contained code or not. In paragraph 35 of the report in Girnar Traders, the Supreme Court held that where a law contains a compilation of provisions, which would comprehensively deal with various aspects of the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, the same can be said to be a complete code.*

37. *Even if apply the parameters indicated in Girnar Traders, the case on hand would pass the test. Section 26(1) of the SEZ Act indicates (1) persons who are entitled to exemptions; (2) the duties in respect which exemption is available; (3) the circumstances under which exemption is available and (4) the provisions of law subject to which the exemptions are available. To put it in simple terms, Section 26(1) identifying the persons, who are eligible for exemption. They are the Developer and*

entrepreneur. Section 26(1) identifies the duties from which exemption is available. They are the duties under the Customs Act, Customs Tariff Act etc. Section 26(1) also indicates the circumstances under which the exemptions are available. These circumstances vary from clause to clause under Section 26(1). This can be best understood by providing a tabulation as follows :

Duty exempted	***Circumstances under which exempted***
(1) Duty under Customs Act, 1962	*(1) on goods imported into or services provided in a special economic zone or a unit to carry on the authorised operations by the Developer or entrepreneur*
(2) Duty under the Customs Tariff Act, 1975	*(2) All goods exported from or services provided from a SEZ or from a unit to any place outside India.*
(3) Duty of excise under the Central Excise Act, 1944 or Central Excise Tariff Act, 1985	*(3) All goods brought from DTA to a SEZ or unit to carry on the authorised operations by the Developer or entrepreneur*
(4) Service tax	*(4) on taxable services provided to a developer or unit to carry on the authorised operations in a SEZ*
(5) Securities transaction tax leviable in Finance (No. 2) Act, 2004	*(5) If the taxable securities transactions are entered into by a non-resident through the international financial service centre.*
(6) Taxes under the Central Sales Tax Act, 1956	*(6) If such goods are meant to carry on authorised operations by the Developer or entrepreneur.*

38. *Thus, the SEZ Act clearly indicates the persons who are entitled to the benefit of exemptions. The Act also lists out the duties from which exemption is granted. The Act enlists the operations or activities in respect of which exemption is available.*

39. *After prescribing all the above three, in Section 26(1) itself, the Act also empowers the Central Government to prescribe in the form of Rules, the manner in which and the terms and conditions subject to which the exemptions are to be granted. Therefore, all the parameters indicated in Girnar Traders are satisfied in Section 26 and the Rules issued thereunder. If the word "prescribe" has not been defined or at least if Section 26 had used the words "prescribed under the relevant statutes" the position would have been different.*

40. *Inviting our attention to a Circular No. 105/08/2008 in F. No. 137/168/2008-CX.4, dated 16-9-2008, Smt. Sundari R. Pisupati, Learned Senior Standing Counsel contended that there is no exclusion of SEZ in Chapter-V of the Finance Act, 1994 and that the service tax is applicable on taxable services provided by SEZ units, except those that are exempt by Notification No. 4 of 2004. She also drew our attention to the amendment introduced to the SEZ Rules by way of notification in GSR 772(E), dated 5-8-2016. Under this notification, sub-rule (5) was inserted under Rule 47 of the SEZ Rules, 2006. This sub-rule (5) inserted in Rule 47 of the SEZ Rules, 2006 reads as follows :*

> *"(5) Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to unauthorized operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962,*

the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder".

41. *On the strength of the aforesaid circular and the amendment to the Rules, it was contended by the Learned Senior Standing Counsel that the machinery provisions for working out refund, drawback etc., are not available either in SEZ Act or the Rules framed thereunder and that therefore, the operation of the Act is subject to the provisions of the other enactments.*

42. *But, we do not agree. Though the "section title" to Section 26 reads as "exemptions, drawbacks and concessions", clauses (a) to (g) except clause (d) speak only about exemptions. It is only clause (d) of sub-section (1) of Section 26, which speaks about drawbacks and such other benefits. In so far as exemption is concerned, sub-section (1) makes the entitlement of a Developer to exemption, subject only to the provisions of sub-section (2) of Section 26. Sub-section (2) of Section 26 empowers the Central Government to prescribe both the manner in which as well as the conditions subject to which exemptions may be granted. Therefore, the area relating to exemption is completely occupied by the rules.*

43. *It is only the issues relating to refund, demand, adjudication, review and appeal, which were left unoccupied by the SEZ Act and the Rules framed thereunder. Realising the vacuum in respect of these specific areas, sub-rule (5) was inserted under Rule 47. Sub-rule (5) of Rule 47 makes a reference to the provisions of the three enactments namely Customs Act, 1962, Central Excise Act, 1944 and Finance Act, 1994 and the Rules made thereunder and the notifications issued thereunder. It is by virtue of this sub-rule (5) that the authorities can fall back upon the Rules and notifications issued under those three enactments. The very fact that sub-rule (5) was inserted would show, that but for its insertion, the respondents cannot fall back upon the Rules framed under the Customs Act etc., for dealing with a question of refund, demand, adjudication etc.*

44. *The issue can be looked at from another angle also. If sub-rule (5) of Rule 47 had also included the procedure for grant of exemption within its purview, then the stand taken by the Department would be perfectly valid. The very fact that sub-rule (5) of Rule 47 made the Rules and notifications issued under certain Acts applicable only to issues of refund, demand etc., would show that Rules 22 and 31 have independent legs to stand."*

9.2 I further find that in the Civil Appeal filed by the department against the aforesaid order of the Hon'ble Andhra Pradesh High Court holding that exemption provided under Section 26 of the SEZ Act, 2005 has over riding effect and that the breach of conditions is procedural, the Hon'ble Supreme Court had dismissed the appeal filed by the department, by upholding the order of the High Court of Andhra Pradesh. The copy of the said judgement of the Hon'ble Supreme Court is extracted and given below:

ITEM NO.18 COURT NO.10 SECTION XII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).22140/2019

(Arising out of impugned final judgment and order dated 27-12-2018 in WP No. 13546/2018 passed by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M/S GMR AEROSPACE ENGINEERING LIMITED & ORS. Respondent(s)
(WITH I.R. and IA No.105573/2019-CONDONATION OF DELAY IN FILING and IA No.105575/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 26-07-2019 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Pinky Anand, ASG
Mr. Arijit Prasad, Sr. Adv.
Mr. Vikrant Yadav, Adv.
Mr. Abhishek Kumar, Adv.
Ms. Tanisha Samanta, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

In the facts and circumstances of the present case, we see no reason to interfere with the impugned judgment and order of the High Court.

The Special Leave Petition is accordingly dismissed.

Pending applications, if any, are disposed of.

Validity unknown
Digitally signed by SANJAY KUMAR
Date: 2019.07.27 13:08:21 IST
Reason:

(SANJAY KUMAR-I) AR-CUM-PS

(SAROJ KUMARI GAUR) COURT MASTER

In view of the detailed analysis and categorical decision of the Hon'ble High Court of Andhra Pradesh which was upheld by the Hon'ble Supreme Court, the issues under dispute in the present case is no more open to debate, and a different view cannot be taken by this Tribunal.

10. In view of the foregoing discussions and analysis, and on the basis of the judgements delivered by the Hon'ble Supreme Court referred above, I am of the considered view that exemption benefits extended to excisable

goods supplied to SEZ under Section 26 of the Special Economic Zones Act, 2005 cannot be denied on the ground that certain procedures have not been followed or certain conditions prescribed in the notification have not been fulfilled.

11. Therefore, the impugned order is liable to be set aside to the extent it had confirmed the adjudged demands and imposed penalty on the appellants. Accordingly, by setting aside the impugned order dated 27.07.2022, the appeal filed by the appellant is allowed in their favour, with consequential relief, if any, as per law.

(Order pronounced in open court on 17.11.2025)

(M.M. Parthiban)
Member (Technical)

Sinha