

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. I

EXCISE APPEAL NO. 52374 OF 2024

(Arising out of Order-in-Appeal No. 60-61/ST/DLH/2024 dated 28.03.2024 passed by the Commissioner Appeals – I, Central Goods and Service Tax, CR Building IP Estate, New Delhi-110002)

M/s. Flora Steels Pvt. Ltd.
M-38, Sector-1,
DSIIDC Bhawana Industrial Area,
Delhi - 110039

.....Appellant

VERSUS

**Commissioner of CGST &
Central Excise**
CR Building, New Delhi

.....Respondent

WITH

EXCISE APPEAL NO. 50115 OF 2025

(Arising out of Order-in-Appeal No. 60-61/ST/DLH/2024 dated 28.03.2024 passed by the Commissioner Appeals – I, Central Goods and Service Tax, CR Building IP Estate, New Delhi-110002)

Mr. Ajit Garg,
M-38, Sector-1,
DSIIDC Bhawana Industrial Area,
Delhi - 110039

.....Appellant

VERSUS

**Commissioner of CGST &
Central Excise**
CR Building, New Delhi

.....Respondent

APPEARANCE:

Shri Vipin Jain, Ms. Tuhina and Shri Rishabh Chandak, Advocates for the Appellant
Shri S.K. Ray, Authorized Representative for the Department

CORAM:

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**DATE OF HEARING: 03.11.2025
DATE OF DECISION: 28.11.2025**

FINAL ORDER NO's. 51805-51806/2025

JUSTICE DILIP GUPTA:

Excise Appeal No. 52374 of 2024 has been filed by M/s. Flora Steels Pvt. Ltd.¹ and **Excise Appeal No. 50115 of 2025** has been filed by Ajit Garg, Director of the appellant² for setting aside the order dated 28.03.2024 passed by the Commissioner (Appeals-I), CGST, Delhi³. The Commissioner (Appeals), by the said order, dismissed the two appeals filed by the appellant and the Director for setting aside the order dated 28.02.2023 passed by the Additional Commissioner (Adjudication), CGST & Central Excise, Delhi-I⁴ adjudicating two show cause notices dated 07.11.2014 and 18.09.2017.

2. The first show cause notice dated 07.11.2014 was issued for confiscation of the goods seized under rule 25 of the Central Excise Rules, 2002⁵ and for imposition of penalty upon the appellant and the Director under rule 26 of the Central Excise Rules.

3. The second show cause notice dated 18.09.2017 was issued proposing demand of central excise duty under section 11A of the Central Excise Act, 1944⁶ with interest under section 11AA and imposition of penalty upon the appellant under section 11AC of the Central Excise Act read with rule 25 of the Central Excise Rules as also for imposition of penalty upon the Director under rule 26 of the Central Excise Rules.

4. The Additional Commissioner passed a common order dated 16.05.2023. While adjudicating the first show cause notice dated 07.11.2014, the Additional Commissioner confiscated the goods but gave an option to the appellant to redeem the goods on payment of redemption fine

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1. **the appellant**
 2. **the Director**
 3. **the Commissioner (Appeals)**
 4. **the Additional Commissioner**
 5. **the Central Excise Rules**
 6. **the Central Excise Act**

and imposed penalties upon the appellant and the Director. While adjudicating the second show cause notice dated 18.09.2017, the Additional Commissioner confirmed the demand of central excise duty with interest and imposed penalties, both upon the appellant and the Director.

5. The order dated 16.05.2023 adjudicating the show cause notice dated 07.11.2014 was assailed by the appellant and the Director in two separate appeals before the Commissioner (Appeals). Both the appeals were dismissed by the Commissioner (Appeals) by an order dated 28.03.2024.

6. It is against the said order dated 28.03.2024 that two appeals have been filed by the appellant and the Director before the Tribunal.

7. It transpires from the record that these two appeals were earlier heard by the Tribunal and by an order dated 08.05.2025 the order passed by the Commissioner (Appeals) in so far as it related to the second show cause notice dated 18.09.2017 confirming the demand of central excise duty with penalties both upon the appellant and the Director was set aside. The Division Bench, however, noticed that as no submission was made with regard to the adjudication of the first show cause notice dated 07.11.2014, the two appeals were directed to be placed for consideration of this issue in due course.

8. This is how the two appeals have come up for hearing.

9. Essentially, therefore, what now requires to be considered in these two appeals is that portion of the impugned order dated 28.03.2024 relating to the first show cause notice dated 07.11.2014, by which the seized goods have been confiscated under rule 25 of the Central Excise Rules with an option to the appellant to get the same redeemed on payment of redemption fine and imposition of penalty, both upon the appellant and the Director.

10. It would first be appropriate to refer to the reasons given by the Division Bench in respect of the second show cause notice dated 18.09.2017.

11. It transpires that the Central Government had introduced "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019"⁷. During the pendency of the adjudication of the second show cause notice, the appellant had filed a declaration in Form SVLDRS-1 on 16.12.2019 for the period 01.04.2013 to 31.12.2016. A Discharge Certificate dated 03.03.2020 in Form SVLDRS-4 was issued to the appellant for full and final settlement of tax dues under section 127 of the Finance Act, 1994⁸. However, the Additional Commissioner confirmed the demand against the appellant by order dated 16.05.2023, which order was challenged by the appellant and the Director before the Commissioner (Appeals) contending that as the Discharge Certificate had been issued, the demand could not have been confirmed. The Commissioner (Appeals) dismissed the appeal against which the present appeals have been filed.

12. It is this issue relating to the second show cause notice that was decided by the Division Bench of the Tribunal in the order dated 08.05.2025. It was held that once the Discharge Certificate had been issued, the matter stood concluded and the appellant was not liable to pay any duty, interest or penalty. The relevant portion of the order passed by the Division Bench is as follows:

"12. In view of this, we hold that as discharge certificate has been issued to the appellant, therefore, the demand confirmed in the impugned order amounting to Rs. 84,46,631/- alongwith interest and penalty under Section 11AC of the Act

7. the 2019 Scheme
8. the Finance Act

are not sustainable. Accordingly, the same are set aside.”

13. Shri Vipin Jain, learned counsel for the appellant assisted by Ms. Tuhina and Shri Rishabh Chadak submitted that once the second show cause notice proposing demand of duty was settled under the 2019 Scheme, the first show cause notice relating to seizure and confiscation becomes infructuous and in support of this contention learned counsel placed reliance upon the following judgments:

- (i) **JV Industries Pvt. Ltd. vs. Union of India & ors⁹**;
- (ii) **Jay Shree Industries vs. Union of India and ors¹⁰**; and
- (iii) **Esbee Electrotech LLP and ors. vs. The Union of India and ors.¹¹**

14. Shri S.K. Ray, learned authorized representative appearing for the department, however, supported the impugned order and submitted that it does not call for any interference in this appeal.

15. The submissions advanced by the learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

16. It is seen that the dispute in respect of the second show cause notice dated 18.09.2017 that was issued to the appellant and the Director proposing demand of duty and penalties was settled under the 2019 Scheme. The order passed by the Commissioner (Appeals) upholding the confirmation of demand of central excise duty and penalties by the Additional Commissioner was set aside by the Tribunal by the earlier order

9. **W.P. (C) 9311 of 2022 decided on 08.09.2025 (Delhi High Court)**
10. **Civil Misc. Writ (Tax) Petition No. 832 of 2020 decided on 06.08.2021 (Allahabad High Court)**
11. **Writ Petition No. 7653 of 2021 decided on 26.07.2024 (Bombay)**

dated 08.05.2025. This order has attained finality as it has not been pointed out by the department that it has been assailed.

17. The issue, therefore, arises for consideration is whether the order confiscating the goods and imposing penalties upon the appellant and the Director can be sustained when in respect of same investigation and for the same period the demand of central excise duty and imposition of penalties upon the appellant and its Director have been settled under the 2019 Scheme.

18. It would, therefore, be necessary to examine the 2019 Scheme. This Scheme is contained in Chapter V of the Finance Act, 2019.

19. Section 124(1) provides that subject to the conditions specified in sub-section (2), the relief would be calculated in the manner indicated.

20. Section 125 deals with persons eligible to make a declaration under the Scheme.

21. Under section 126, the designated committee verifies the correctness of the declaration made under section 125.

22. Under sub-section (1) of section 127, the designated committee issues in electronic form, a statement, indicating the amount payable by declarant. Sub-section (5) provides that the declarant shall pay electronically the amount payable indicated in the statement issued by the designated committee within a period of 30 days from the date of issue of such a statement. Sub-section (8) provides that on payment of the amount indicated in the statement of the designated committee, the designated committee shall issue a Discharge Certificate in electronic form.

23. Section 129 provides that issue of Discharge Certificate is conclusive as to the matter and the time period stated therein and it is reproduced below:

“129. (1) Every discharge certificate issued under section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and time period stated therein, and—

(a) the declarant shall not be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration;

(b) the declarant shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration;

(c) no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.

(2) Notwithstanding anything contained in sub-section (1),—

(a) no person being a party in appeal, application, revision or reference shall contend that the central excise officer has acquiesced in the decision on the disputed issue by issuing the discharge certificate under this scheme;

(b) the issue of the discharge certificate with respect to a matter for a time period shall not preclude the issue of a show cause notice,—

(i) for the same matter for a subsequent time period; or

(ii) for a different matter for the same time period;

(c) in a case of voluntary disclosure where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.”

(emphasis supplied)

24. Section 132 provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of the Scheme.

25. The Central Government has framed rules called as Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019¹².

26. Rule 3 of the 2019 SVLDRS Rules provides that the declaration under section 125 shall be made in Form SVLDRS-1.

27. Rule 6(2) provides that the statement under section 127 shall be issued by the designated committee in Form SVLDRS-3 setting forth the particulars of the amount payable.

28. Rule 9 deals with issue of Discharge Certificate and it provides that the designated committee, on being satisfied that the declarant has paid in full, the amount as determined by it and indicated in Form SVLDRS-3, shall issue electronically in Form SVLDRS-4 a Discharge Certificate as provided for under sub-section (8) of section 127.

29. It is clear from the provisions of section 129 of the 2019 Scheme that every Discharge Certificate issued under section 126 with respect to the amount payable under the Scheme shall be conclusive as to the matter and time period stated therein and the declarant shall neither be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration, nor the declarant shall be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration.

30. In the present case, the Discharge Certificate in Form SVLDRS-4 was issued to the appellant on 03.02.2020 for the period from 01.04.2013 upto 31.12.2016. The amount payable has been determined as 2,99,978.50/- and this amount has also been paid by the appellant.

31. A perusal of sections 12F of the Central Excise Act would show that where the officer has reason to believe that any goods are liable to

12. the 2019 SVLDRS Rules

confiscation, he may seize the goods. Under section 34 of the Central Excise Act, wherever confiscation is adjudicated, the officer shall give the owner of goods an option to pay in lieu of confiscation such fine as the officer thinks fit. This fine is commonly known as redemption fine.

32. In **Jay Shree Industries**, the Allahabad High Court observed that 'confiscation' is a penalty in rem and upon any confiscation made, the option to pay redemption fine is required to be provided. Thus, redemption fine must necessarily be considered a 'penalty' against the offending goods. The Allahabad High Court also held that in the absence of any provision to exclude redemption fine/penalty in rem from the benefits of the Discharge Certificate issued under section 129 of the 2019 Scheme, it would be included. The relevant observations are reproduced below:

"26. *****

Plainly, same, or similar concept of 'confiscation' exists both under the Customs Act, 1962 and the Central Excise Act, 1944. It allows the revenue authorities to seize and confiscate any goods found offending those legislations. Under both enactments, such confiscation is in addition to the other penalties prescribed against the person offending the laws in the transaction that may give rise to an act of 'confiscation'. Again, under both legislations, there is a right given to the offender to reclaim the title in the confiscated goods, subject to payment of an amount in addition to the other penalties that may have been imposed. That amount is known as the 'redemption fine', under both laws.

31. In view of that law laid down by the Supreme Court, 'confiscation' is nothing but a penalty in rem. Redemption fine, by virtue of Section 34 of the Central Excise Act, is only a payment made in lieu of this penalty. Upon any 'confiscation' made under the Act, the option to

pay an equivalent fine is required to be provided. It is not possible to say that the nature of 'confiscation' under the Act and a fine in lieu thereof is somehow different. 'Redemption fine' must necessarily also be considered a 'penalty' against the offending goods. Further, in absence of any contrary statutory definition of the word 'penalty' or other specific exclusion of 'redemption fine' from the consequences of issuance of a Discharge Certificate (under section 129 of the Scheme), **undoubtedly, the word 'penalty' appearing in section 129 of the Scheme includes, within its plain ambit, both, a penalty in personam and a penalty in rem. Here, both, personal penalty and the penalty in rem arose from a single transaction. Clearly, both penalties are part of the same dispute, for a common period. *******

35. As noted above, the Scheme being a piece of reformative legislation, 'redemption fine' that is a penalty in rem must clearly be shown to have been excluded from the meaning of the word 'penalty' used in section 129 of the Scheme, before it may be inferred that a Discharge Certificate may be issued only upon payment of the 'redemption fine'/penalty in rem. In absence of any provision to exclude 'redemption fine'/ penalty in rem from the benefits of the Discharge Certificate contained in section 129 of the Scheme, no such inference may be drawn, against the plain language and intent of the Scheme. In absence of any express exclusion created by the Scheme, 'redemption fine' would always remain a 'penalty' covered under the meaning of that word used in section 129 (1) (a) read with section 121 (u) of the Scheme. *****"

(emphasis supplied)

33. Similar view was taken by the Bombay High Court in **Esbee Electrotech** and the aforesaid judgment of the Allahabad High Court in **Jay Shree Industries** was relied upon. The relevant observations are reproduced below:

"3.3 It is the contention of Petitioner that the issue of waiver of redemption fine is covered by SVLDR Scheme or not is no more res integra in the light of the decision of (i) the Gujarat High Court in Synpol Products Pvt. Ltd. vs. Union of India 1 and SLP has also been dismissed by the Supreme Court, (ii) the Allahabad High Court in M/s. Jay Shree Industries vs. Union of India & Anr. 2 and (iii) this Court in HP Adhesives Limited vs. Union of India & Ors. 3 . Petitioner further submitted that under the Scheme what is required to be deposited is the amount of tax dues relating to the duty and, therefore, Respondents are not justified in rejecting the application since once the duty is settled under the scheme, waiver of penalty and fine is consequential.

3.7 Assuming we accept the contention of respondents that "redemption fine" is nothing but a "duty" then even in that case, the SVLDR Scheme grants immunity/waiver from such "redemption fine" if the basic excise duty is paid as per the Scheme. This is so because under Section 124, what is required to be paid is the prescribed percentage of "tax dues" which is defined in Section 123 to mean the amount of duty disputed and the "amount of duty" is further defined in Section 121 (d) to mean the amount of "central excise duty". **Therefore, when Section 124 speaks of payment required to be made of the tax dues, it is certain percentage of central excise duty which entitles the applicant to waiver/immunity under Section 129 of the SVLDR Scheme. Therefore, payment has to be**

of basic excise duty and not redemption fine to avail benefit of SVLDR Scheme. Admittedly, "redemption fine" cannot be considered as "central excise duty". Section 129 (1) (a) which provides immunity/waiver states that the declarant shall not be liable to pay any further duty, interest or penalty. The phrase "further duty" by accepting the contention of respondents would cover redemption fine also. To put it simply, what is required to be paid for availing benefits of the scheme is the prescribed percentage of central excise duty which is payable as per Section 3 of the Central Excise Act and when Section 129(1)(a) which grants immunity/waiver refers to "any further duty", it would mean any payment other than central excise duty and, therefore, by accepting the contention of respondents, "redemption fine" would fall within the phrase "any further duty". Therefore even on this count, the rejection of the application by respondents is not justified."

(emphasis supplied)

34. It is after following the aforesaid judgment of the Allahabad High Court in **Jay Shree Industries** and the Bombay High Court in **Esbee Electrotech**, that the Delhi High Court in **JV Industries** held:

"**27.** The Court has considered the matter. The SVLDR Scheme is a scheme which was meant to provide some relief to tax payers whose dues may have been pending for a very long time or where there are disputes in respect of payment of Excise dues. One of the purposes of the SVLDR Scheme is to resolve the litigations and cases which were pending and were also burdensome, both to the taxpayers and to the Department. *****

35. The issue that has arisen for consideration in the batch of cases, which the present petitions are a part of, is whether where cases where goods are liable for confiscation or any

seizure is effected, such cases would be covered under the benefits in the SVLDR Scheme. The further question is whether in cases where redemption fine is imposed for release of confiscated goods, the Scheme would apply or not and if the person deposits the duty in terms of Clause 124 of the SVLDR Scheme, a discharge certificate would be liable to be issued.

37. A perusal of the above provisions of the Central Excise Act, 1944 would show that whenever there is confiscation due to non-payment of excise duty, seizure of relevant material can be done under Section 12F and a fine would have to be paid by the tax payer for release of the goods which have been confiscated. Such a fine is called the redemption fine. **Hence, the seizure and/or redemption fine is nothing but a consequence of non-payment of excise duty. The same cannot be considered as a separate category of penalty, insofar as the applicability of the SVLDR Scheme is concerned.**

38. Under the SVLDR Scheme, Section 124 provides that only the part of the excise duty has to be paid, depending upon the amount of tax due. Hence, the same can be either 40%, 50%, 60% or 70% of the tax dues and there is no requirement to pay either the balance tax alongwith penalty or any interest.

45. The Court has considered the overwhelming decisions which have been cited on behalf of the Petitioner, as also the arguments made on behalf of the Respondents.

46. In the judgments discussed above, all Courts have taken the view that redemption fine would be covered under duty and penalty and a separate mention of redemption fine was not required either under SVLDR Scheme-I or in terms of the Sections in the scheme itself.

47. The scheme of the Central Excise Act, 1944 reveals that whenever there is non-payment of excise duty in respect of any goods, there can be various consequences. There can be seizure of goods and/or relevant material, a redemption fine can be imposed for release of goods. Such seizure or imposition of redemption fine, is nothing but a fine being paid due to nonpayment of duty. Once the duty itself gets settled under the SVLDR Scheme, it would not be appropriate to interpret the Scheme in a manner that would be contrary to the intention thereof.

48. The discharge certificate that is to be issued by the Department upon payment of duty in terms of the scheme is for waiver of entire duty, interest or penalty and redemption fine would be part of these three terminologies, as has been rightly interpreted by the CBIC itself in its flyer and FAQs.

49. Tax payers who may not understand complex terminologies in a taxing statute heavily rely upon the FAQs or promotional material published by the CBIC to understand such Schemes. Hence, responsibility has to be borne by the Department to such FAQs which are followed as guidance by the tax payers and arguments to the contrary would not be tenable.

50. Under such circumstances, this Court is of the opinion that when penalties and interest are being waived under the SVLDR Scheme but the redemption fine is not waived, as is being argued by the Respondents, such an interpretation would go contrary to the fundamental purpose and the raison d'être of the SVLDR Scheme itself. In the opinion of this Court, the purpose of the SVLDR Scheme is to give a finality to a particular dispute and not to keep the aspect relating to redemption fine pending. Seizure cases are also no exception to this.

51. This Court concurs with the view of various other High Courts discussed above that redemption fine would be waived, once a tax payer has availed of the benefits of the SVLDR Scheme and has paid the amount in terms thereof. Once the payment is made, benefits of the Scheme would also extend to Seizure/Confiscation cases.”

(emphasis supplied)

35. The Bombay High Court in **Esbee Electrotech** held that the 2019 Scheme grants immunity/wavier from redemption fine, if the basic central excise duty is paid as per the Scheme.

36. The Delhi High Court in **JV Industries** also held that since seizure or redemption fine is nothing but a consequence of non-payment of central excise duty, the same cannot be considered as a separate category of penalty in so far as the applicability of the 2019 Scheme is concerned. The Delhi High Court further held that the Discharge Certificate that is issued by the department upon payment of duty in terms of the 2019 Scheme is for wavier of entire duty, interest or penalty and redemption fine would form part of these three terminologies, as has also been interpreted by the Central Board of Indirect Taxes and Customs.

37. In view of the aforesaid judgment of the Allahabad High Court, the Bombay High Court and the Delhi High Court, the benefit of the 2019 Scheme would also extend to seizure/confiscation cases as the seizure/confiscation and demand of duty arise out of the same investigation and for the same period. Thus, when penalty and interest was waived by issuance of the Discharge Certificate under the 2019 Scheme, redemption fine also stands waived. The order confiscating the goods with option to pay redemption fine in respect of the first show cause notice, therefore, cannot

be sustained once the Discharge Certificate was issued in respect of the demand confirmed and penalties imposed arising out of the same investigation and for the same period covered by the second show cause notice.

38. The order dated 28.03.2024 passed by the Commissioner (Appeals) is, accordingly, set aside and the two appeals are allowed.

(Order Pronounced on **28.11.2025**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)