

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT No. III

**Excise Appeal No. 40512 of 2023**

(Arising out of Order-in-Original No. 26/2023 (Commr.) dated 31.05.2023 passed by Commissioner of GST and Central Excise, Newry Towers, 2054-I, II Avenue, 12<sup>th</sup> Main Road, Anna Nagar, Chennai – 600 040)

**M/s. MRF Limited**

No. 114, Greams Road,  
Chennai – 600 006.

**...Appellant**

***Versus***

**Commissioner of GST and Central Excise**

Chennai Outer Commissionerate,  
Newry Towers, 2054-I,  
II Avenue, 12<sup>th</sup> Main Road,  
Anna Nagar,  
Chennai – 600 040.

**...Respondent**

**APPEARANCE:**

For the Appellant : Mr. Karthik Sundaram, Advocate

For the Respondent : Mr. S. Subramanian, Special Counsel

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No. 40364 / 2026**

DATE OF HEARING : 29.09.2025

DATE OF DECISION : 16.03.2026

**Per Mr. VASA SESHAGIRI RAO**

The present appeal is directed against Order-in-Original No. 26/2023 (Commr) dated 31.05.2023 whereby the learned Commissioner has disallowed valuation adopted under Section 4 of the Central Excise Act, 1944 in respect of certain tyres, tubes and flaps cleared to the replacement market and has held that such goods are liable to valuation under Section 4A of the Central Excise Act, 1944. The

learned Commissioner has consequently confirmed a demand of differential duty amounting to ₹221,31,60,075/- for the period 01.03.2012 to 30.06.2017 along with interest under Section 11AA and penalty under Section 11AC read with Rule 25 of the Central Excise Rules, 2002.

1.2 The Appellant is a manufacturer of tyres, tubes and flaps falling under Chapter 40 of the Central Excise Tariff Act, 1985 and was operating multiple manufacturing units across the country. It is not in dispute that certain categories of high-end tyres, which were fully wrapped and bore MRP stickers, were assessed under Section 4A. The present dispute concerns tyres, tubes and flaps that were inserted together and secured with two or three plastic carry straps, allegedly for safety during transportation.

1.3 The Department formed a view that such strapped tyres, tubes and flaps constitute "pre-packaged commodities" within the meaning of Section 2(l) of the Legal Metrology Act, 2009 read with the Legal Metrology (Packaged Commodities) Rules, 2011 and that, therefore, the goods were liable to assessment under Section 4A read with Notification No. 49/2008-CE (NT). Investigation culminated in issuance of Show Cause Notice dated

06.04.2019 invoking extended period under Section 11A(4) and proposing revaluation under Section 4A.

1.4 The Commissioner confirmed the demand holding that the impugned goods satisfy the conditions laid down by the Hon'ble Supreme Court in *Jayanti Food Processing (P) Ltd. v. CCE, 2007 (215) ELT 327 (SC)* and *Whirlpool India Ltd. v. Union of India, 2007 (218) ELT 167 (SC)*, and further held that extended period is invocable on account of suppression.

2. Aggrieved, the Appellant has filed the present appeal.

3. The Learned Advocate, Shri Karthik Sundaram, appeared on behalf of the Appellant and Shri Subramanian, the Special Counsel appeared for the Revenue.

4. The Learned Advocate for the Appellant submitted that: -

4.1 The entire foundation of the impugned order is legally flawed. It was argued that Section 4A applies only when goods are sold in packaged form and when there is a statutory requirement under the Legal Metrology Act or any other law to declare the retail sale price on such package.

The strapped tyres, tubes and flaps are not “packages” and do not fall within the definition of “pre-packaged commodity” under Section 2(l) of the Legal Metrology Act, 2009.

4.2 Mere strapping at two or three points, covering hardly 1.4% to 3.3% of surface area, cannot amount to packaging. The goods remain fully visible, unwrapped and unsealed. Reliance is placed on Clarifications dated 01.05.1991 and 16.11.1992 issued by the Ministry of Food & Civil Supplies under the Standards of Weights and Measures Act, 1976, which specifically clarified that tyres tied with polythene strips do not constitute “pre-packaged commodities”.

4.3 These clarifications continue to hold the field under Section 57 of the Legal Metrology Act and Rule 34 of the Packaged Commodities Rules. The Commissioner erred in disregarding binding clarifications without jurisdiction.

4.4 Strong reliance was placed upon the recent decision of this Tribunal in *M/s. Apollo Tyres Ltd. v. Commissioner of GST & Central Excise, Chennai, 2025 (10) TMI 1128 (CESTAT Chennai)*, wherein identical facts involving strapped tyres were held not assessable under

Section 4A. It is contended that judicial discipline mandates following the said decision.

4.5 On limitation, it was submitted that the industry practice was known to the Department, correspondences were exchanged, and no suppression can be alleged. Invocation of Section 11A(4) is wholly unsustainable. Reliance is placed on *Pahwa Chemicals Pvt. Ltd., 2005 (189) ELT 257 (SC)*, *Anand Nishikawa Co. Ltd., 2005 (188) ELT 149 (SC)*, and *Gokak Patel Volkart, 1987 (28) ELT 53 (SC)*.

4.6 It was further argued that quantification is erroneous, particularly in respect of exports and certain plant-wise calculations.

5. The Special Counsel for the Department supported the impugned order and further submitted that: -

5.1 Once tyres, tubes and flaps are inserted and strapped together, they are sold as a unit in predetermined quantity and therefore satisfy the definition of "pre-packaged commodity".

5.2 Rule 2(k) and Rule 6 of the Packaged Commodities Rules require declaration of retail sale price

once goods are meant for retail sale. The expression “or otherwise” in Rule 2(g) is wide enough to include strapping.

5.3 Revenue relies upon Whirlpool India Ltd. (supra) and contends that once goods are specified under Notification No. 49/2008-CE (NT), valuation must follow Section 4A.

5.4 On limitation, Department submits that identical products were valued differently under Section 4 and 4A, evidencing deliberate suppression.

6. We have heard both sides at considerable length and perused the records and authorities cited.

7. The appeal raises substantial questions concerning the interface between central excise valuation and the Legal Metrology regime, the applicability of Section 4A, and the sustainability of extended limitation and penalty.

8. Upon consideration, the following issues arise for determination: -

- i. Whether tyres, tubes and flaps tied with plastic straps constitute “pre-packaged commodities” under the Legal

Metrology Act, 2009 and consequently attract valuation under Section 4A of the Central Excise Act, 1944?

- ii. Whether extended period under Section 11A(4) is invocable? And,
- iii. Whether penalty under Section 11AC is sustainable?

**Issue No. (i) Whether tyres, tubes and flaps tied with plastic straps constitute “pre-packaged commodities” under the Legal Metrology Act, 2009 and consequently attract valuation under Section 4A of the Central Excise Act, 1944?**

9. We observe that the principal controversy is whether the impugned strapped tyre-tube-flap combinations constitute “pre-packaged commodities” under Section 2(l) of the Legal Metrology Act, 2009 so as to attract a statutory requirement to declare retail sale price and consequently fall within Section 4A of the Central Excise Act, 1944.

9.1 We note that Section 4 embodies the general rule of valuation under the Central Excise Act. It mandates assessment on the basis of transaction value, that is, the price actually paid or payable for the goods when sold for delivery at the time and place of removal, provided the buyer and seller are not related and price is the sole consideration. Section 4 represents the legislative norm and reflects the

preference for valuation based on actual commercial transactions.

9.2 Whereas Section 4A, in contrast, is a special provision and an exception to Section 4. It provides that in respect of goods notified by the Central Government and in relation to which the provisions of the Standards of Weights and Measures Act, 1976 (now the Legal Metrology Act, 2009) or any other law requires declaration of retail sale price on the package, the value shall be deemed to be the declared RSP less such abatement as may be notified. Section 4A thus displaces transaction value only upon satisfaction of specific statutory preconditions.

9.3 It is to be noted that The Hon'ble Supreme Court in *Jayanti Food Processing (P) Ltd. v. CCE, 2007 (215) ELT 327 (SC)*, authoritatively laid down that Section 4A applies only when five cumulative conditions are fulfilled: the goods must be excisable; they must be sold in a package; there must be a statutory requirement under the weights and measures law to declare retail sale price on such package; the goods must be specified by notification under Section 4A(1); and valuation must be based on the declared retail sale price less abatement. The Court emphasised that these conditions are cumulative and not alternative. Failure of any

one condition renders Section 4A inapplicable in case of excisable goods.

9.4 Above ratio of Jayanti Food Processing was reiterated and reinforced in *Whirlpool India Ltd. v. Union of India, 2007 (218) ELT 167 (SC)*, wherein the Supreme Court held that the applicability of Section 4A depends fundamentally on the existence of a statutory mandate to declare retail sale price under the governing weights and measures law. The Court clarified that the triggering factor is not whether the manufacturer in fact declares RSP or fixes an internal MRP, but whether the law requires such declaration. If there is no statutory requirement, Section 4A cannot be invoked.

9.5 We find that these decisions establish beyond doubt that Section 4A is not an independent charging provision. It is contingent upon the Legal Metrology regime. Being an exception to the general rule under Section 4, it must be applied strictly within the statutory contours. As held by the Constitution Bench in *Dilip Kumar & Co., 2018 (361) ELT 577 (SC)*, special provisions and exemptions in fiscal statutes must be strictly construed. The same principle applies to a deeming valuation provision such as Section 4A.

9.6 In the present case, there is no dispute that tyres, tubes and flaps are excisable goods. There is also no dispute that Notification No. 49/2008-CE (NT) dated 24.12.2008 includes "parts, components and assemblies of automobiles" and that Board Letter No. 167/38/2008-CX-4 dated 16.12.2008 clarified that tyres, tubes and flaps fall within that expression. Thus, the first and fourth conditions in Jayanti Food Processing stand satisfied. The controversy arises in respect of the second and third conditions — whether the goods are "sold in a package" and whether there exists a statutory requirement under the Legal Metrology Act, 2009 to declare RSP on such goods.

9.7 Section 2(l) of the Legal Metrology Act, 2009 defines "pre-packaged commodity" as a commodity which, without the purchaser being present, is placed in a package of whatever nature so that the quantity has a pre-determined value. The definition contains three essential elements: (i) placement in a package; (ii) absence of purchaser at the time of packing; and (iii) pre-determined quantity. The second and third elements are not in serious dispute. The central issue in this appeal is whether the impugned goods are "placed in a package".

9.8 The expression “placed in a package” cannot be treated as surplusage. The Legislature has not used broader expressions such as “assembled”, “bundled”, “tied” or “grouped”. It has used the specific expression “placed in a package”. The natural and commercial meaning of “package” connotes enclosure or containment — such as a carton, wrapper, bottle, bag, box, tin or other receptacle. The words “of whatever nature” expand the types of packages but do not eliminate the requirement of existence of a package. Similarly, the phrase “whether sealed or not” clarifies that sealing is not mandatory; it does not transform every act of tying or securing into ‘packaging’.

9.9 We note that In *Connaught Plaza Restaurant (P) Ltd., 2012 (286) ELT 321 (SC)*, the Supreme Court reiterated that in fiscal statutes, words must be interpreted in their commercial sense and not stretched to achieve perceived policy objectives. The concept of “package” must therefore be understood in its ordinary commercial meaning. Commercially understood, packaging involves enclosure or containment. A plastic carry strap does not enclose, contain, wrap or box the goods. It merely secures.

9.10 The factual evidence on record demonstrates that the tubes and flaps are inserted into tyres and secured at two or three points by thin plastic carry straps. The straps cover only a minimal portion of the tyre surface — approximately 1.4% to 3.3% and do not create any enclosure. The tyre remains fully exposed. There is no carton, no shrink-wrap, no sealed covering and no receptacle. The strapping is undertaken to prevent displacement during handling and transport. Such securing for logistical convenience cannot be equated with placement “in a package”.

9.11 The Revenue contends that because the tyre, tube and flap are cleared together as a composite set in predetermined quantity, they must be regarded as pre-packaged commodities. This argument conflates pre-determined quantity with packaging. The statute requires both. A commodity of predetermined quantity sold loose does not become a pre-packaged commodity merely because it is sold in retail. The Legal Metrology Act regulates retail packages, not every retail sale.

9.12 The Revenue’s reliance upon Whirlpool and certain expressions in Jayanti Food Processing is misplaced. In those cases, the goods were admittedly sold in

conventional packages such as cartons or containers bearing MRP. The Supreme Court did not hold that tying or strapping without enclosure constitutes packaging. Observations in those judgments must be read in the factual context in which they were rendered.

9.13 The Appellant has placed reliance upon clarifications dated 01.05.1991 and 16.11.1992 issued under the Standards of Weights and Measures Act, 1976, wherein it was clarified that tyres tied with plastic strips do not constitute pre-packed commodities. Similar clarification was issued by Cochin Customs *vide* communications dated 20.12.2006 and 20.11.2006 reiterating the same position. Section 57 of the Legal Metrology Act, 2009 provides that notifications, rules and clarifications issued under the repealed Act shall continue insofar as they are not inconsistent with the new Act. It is a fact that the Revenue has not demonstrated any inconsistency. The essential requirement of placement in a package remains unchanged in the 2009 Act.

9.14 We further find that the Chennai Bench of this Tribunal in *M/s. Apollo Tyres Ltd. v. Commissioner of GST & Central Excise, Chennai*, 2025 (10) TMI 1128 (CESTAT Chennai), on materially identical facts, undertook a detailed

examination of the Legal Metrology Act, Jayanti Food Processing, Whirlpool, Board circulars and earlier clarifications, and held that tyres with tubes and flaps secured by plastic straps do not constitute pre-packaged commodities and are not liable to valuation under Section 4A. The Tribunal specifically analysed the transition from the Standards of Weights and Measures Act to the Legal Metrology Act and concluded that there was no material change affecting the issue.

9.15 A similar view was taken in *J.K. Tyres & Industries Ltd. v. CCE, Indore, 2017 (358) ELT 1044 (Tri.-Del.)*, where tyres not cleared in retail packages were held not liable to valuation under Section 4A. Judicial discipline mandates that a coordinate Bench decision be followed unless shown to be per incuriam or contrary to binding precedent. No such distinguishing feature has been demonstrated by the Revenue.

9.16 The Revenue also placed reliance upon Notification No. 49/2008-CE (NT) and Board Letter No. 167/38/2008-CX-4 dated 16.12.2008. However, the notification merely specifies goods to which Section 4A may apply. It does not dispense with the statutory requirement under the Legal Metrology Act. Section 4A operates only "in

relation to which it is required” under the Legal Metrology law to declare RSP. The notification cannot enlarge the scope of the charging provision.

9.17 The reliance placed on internal marketing circulars fixing MRPs for various States is equally misconceived. Internal fixation of MRPs or recommended retail prices does not create a statutory obligation to declare RSP on the package. Section 4A is triggered by statutory mandate, not by internal pricing policy. Many goods sold loose have recommended retail prices; that fact alone does not render them pre-packaged commodities.

9.18 Section 4A results in a deeming fiction substituting actual transaction value with a notional RSP-based value. Such deeming provisions must be strictly confined to cases where statutory preconditions are clearly met. To equate strapping for transport convenience with packaging would expand Section 4A beyond legislative intent and lead to anomalous consequences.

9.19 On a cumulative consideration of the statutory scheme, the definition under Section 2(l) of the Legal Metrology Act, the binding precedents in Jayanti Food Processing and Whirlpool, the principles laid down in Dilip

Kumar and Connaught Plaza, the clarifications issued under the earlier regime and preserved by Section 57, the binding decision of this Tribunal in Apollo Tyres Ltd., and the factual evidence on record, we hold that tyres, tubes and flaps secured by plastic carry straps are not “placed in a package” within the meaning of the Legal Metrology Act, 2009.

9.20           Consequently, there is no statutory requirement under the Legal Metrology Act or the Packaged Commodities Rules to declare retail sale price on such strapped goods. The cumulative conditions laid down in Jayanti Food Processing are not satisfied.

9.21           Section 4A is therefore inapplicable. The impugned goods are correctly assessable under Section 4 of the Central Excise Act, 1944.

Thus, issue (i) is answered in favour of the Appellant.

**ISSUE (ii) – Whether extended period under Section 11A(4) is invocable?**

10.           We now proceed to examine the issue of limitation, which goes to the very root of the demand. The Show Cause Notice dated 06.04.2019 seeks to demand differential duty for the period from 01.03.2012 to 30.06.2017. It is an admitted position that a substantial portion of the demand falls beyond the normal period of

limitation prescribed under Section 11A(1) of the Central Excise Act, 1944. The Department has invoked the extended period under Section 11A(4), alleging suppression of facts, wilful misstatement, and deliberate adoption of “double standards” in valuation with an intent to evade payment of duty.

10.1 The main question that therefore arises is whether the facts in appeal necessary to invoke the extended period under Section 11A(4) stand established in the present case?

10.2 Section 11A(4) permits recovery of duty within five years only where non-payment is by reason of fraud, collusion, wilful misstatement, suppression of facts or contravention with intent to evade duty.

10.3 The law on invocation of extended limitation is now well settled through a consistent line of judgments of the Hon’ble Supreme Court.

10.4 In *Anand Nishikawa Co. Ltd. v. CCE, 2005 (188) ELT 149 (SC)*, the Supreme Court categorically held that suppression of facts must be wilful and deliberate. The Court observed that mere omission to disclose information is not

suppression unless there is deliberate withholding of information with intent to evade duty. The Court emphasised that something positive other than mere inaction or negligence is required before the extended period can be invoked.

10.5 Similarly, in *Pahwa Chemicals Pvt. Ltd. v. CCE, 2005 (189) ELT 257 (SC)*, the Supreme Court held that where the dispute relates to interpretation of law and all material facts are known to both parties, the extended period cannot be invoked. The Court clarified that if the assessee has disclosed primary facts and the dispute is only about their legal consequences, it would not amount to suppression.

10.6 These decisions lay down two fundamental principles: first, that suppression must be wilful and deliberate; and second, that where the dispute is interpretational and facts are disclosed, extended limitation is not invokable.

10.7 Applying these principles to the present case, we find that the demand is founded entirely on the allegation that the Appellant ought to have valued the impugned goods under Section 4A instead of Section 4. There is no allegation

of clandestine removal. There is no allegation of non-accountal of production. There is no allegation of parallel invoices or undervaluation of transaction value. The dispute is confined to the legal question whether Section 4A is applicable to strapped tyre-tube-flap combination.

The Supreme Court in *Ujagar Prints v. Union of India, (1989) 3 SCC 488*, recognised that valuation disputes often involve complex interpretational issues and do not by themselves establish 'intent to evade'.

10.8 The valuation methodology adopted by the Appellant was consistently reflected in ER-1 monthly returns filed with the Department. The clearances were recorded in statutory records. The assessable value and duty paid were declared. There is no finding in the impugned order that the Appellant concealed the nature of the goods or mis-described them in invoices. On the contrary, the nature of the goods i.e. tyres with tubes and flaps inserted and secured by carry straps was openly visible and known to the Department.

10.9 The Appellant has also placed on record correspondence dated 26.02.2013 (Page 57-58 of Appeal Paper Book) addressed to the jurisdictional authorities explaining the process of insertion and carry-strapping. The Department has not disputed receipt of this communication.

Thus, the essential factual matrix was within the knowledge of the Department during the relevant period.

10.10 The Revenue seeks to justify invocation of the extended period primarily on the ground that identical product codes were sometimes assessed under Section 4A (when fully wrapped and bearing MRP) and sometimes under Section 4 (when strapped without MRP), and that this constitutes adoption of "double standards." We are unable to accept this reasoning as sufficient to establish suppression with intent to evade.

10.11 Differential valuation based on factual distinction in packaging does not amount to suppression. The Appellant's case is that fully wrapped tyres, which were placed in cartons or shrink-wrap and bore MRP, were assessed under Section 4A; whereas strapped goods, not constituting pre-packaged commodities, were assessed under Section 4. This distinction is rooted in interpretation of the Legal Metrology law and the scope of Section 4A. It is not a clandestine practice but a legal position.

10.12 The fact that the Appellant applied Section 4A to certain clearances militates against the allegation of intent to evade. If the intention was to avoid Section 4A altogether,

the Appellant would not have applied it in any case. The selective application based on packaging status indicates a bona fide understanding rather than a device to evade duty.

10.13 The Revenue has also relied upon internal marketing circulars fixing MRPs and argued that non-printing of MRP on strapped goods evidences intent to evade. This argument again overlooks that Section 4A is triggered not by internal MRP fixation but by statutory requirement under the Legal Metrology law. The Appellant's consistent position has been that strapped goods are not pre-packaged commodities and therefore not required to declare MRP. Whether that position is correct or not is a matter of legal interpretation; it does not ipso facto establish suppression.

10.14 It is also significant that the issue involves interpretation of the Legal Metrology Act, 2009 and the Packaged Commodities Rules, 2011. The Ministry of Consumer Affairs itself, in its communication dated 04.04.2016, stated that tyre-tube-flap combinations "may" be considered pre-packaged if they fall within the definition. The use of the expression "may" indicate lack of categorical clarity even at the level of the line Ministry. When the statutory authority administering the Legal Metrology law expresses the matter in tentative terms, it would be wholly

unjust to attribute wilful suppression to the assessee for adopting a plausible interpretation.

10.15 The Supreme Court in *Damnet Chemicals Pvt. Ltd., 2007 (216) ELT 3 (SC)*, held that extended limitation cannot be invoked merely because the Department changes its opinion regarding classification or valuation. If the facts were known and the issue relates to interpretation, the extended period is not available.

10.16 In the present case, the Department has not demonstrated any positive act of concealment. The Show Cause Notice largely reproduces statutory language and asserts that the Appellant adopted double standards. However, mere reproduction of statutory phrases such as "suppression" or "wilful misstatement" is insufficient. The burden lies on the Department to establish the jurisdictional facts. The impugned order does not record any specific finding of deliberate concealment of information that was not otherwise available in statutory returns.

10.17 We also note that the period of demand commences from 01.03.2012 and the Show Cause Notice was issued on 06.04.2019. Even assuming arguendo that the extended period of five years applies, the Department would

have to establish suppression continuing up to the relevant date. There is no material on record to show that issuance of Show Cause Notice was prevented by any stay order. The Department has sought to rely on pendency of writ proceedings. However, as held by the Supreme Court in *Gokak Patel Volkart Ltd., 1987 (28) ELT 53 (SC)*, exclusion of time must be strictly construed and must be supported by clear statutory or judicial mandate. No such mandate has been demonstrated here.

10.18 The entire case of the Department is premised on its interpretation that Section 4A applies. Once we have held, on merits, that Section 4A is not applicable, the foundation of the allegation of suppression collapses. Even if one were to assume, for argument's sake, that there was scope for two views, the existence of a plausible view adopted by the assessee supported by earlier clarifications and subsequently affirmed by this Tribunal in *Apollo Tyres Ltd. (Supra)*., reinforces the bona fide nature of the Appellant's conduct.

10.19 The jurisprudence is clear that extended limitation cannot be invoked in cases of bona fide interpretational disputes. The Supreme Court in *Pahwa Chemicals and Anand Nishikawa* has consistently held that

mere interpretational disputes cannot justify invocation of the extended period. The burden to establish the existence of fraud, wilful misstatement or suppression with intent to evade duty lies squarely upon the Revenue.

10.20 In light of the foregoing analysis, we find that the essential ingredients of Section 11A(4) are not established. There is no evidence of fraud, collusion, wilful misstatement, or deliberate suppression with intent to evade duty. The dispute is fundamentally interpretational, relating to the applicability of Section 4A *vis-à-vis* Section 4 in the context of the Legal Metrology Act.

10.21 Accordingly, invocation of the extended period under Section 11A(4) is unsustainable.

Issue (ii) is answered in favour of the Appellant.

### **ISSUE (iii) – INTEREST AND PENALTY**

11.1 The Show Cause Notice proposes recovery of interest under Section 11AA and imposition of penalty under Section 11AC.

11.2 Having examined the issues on merits and limitation and having held that the impugned goods are not

liable to valuation under Section 4A of the Central Excise Act, 1944 and that the extended period under Section 11A(4) is not invocable, we now proceed to consider the consequential question of liability to interest and penalty.

11.3 At the outset, it is trite law that penalty under Section 11AC is attracted only when the ingredients specified in Section 11A(4) are established. Section 11AC is not an automatic or mechanical consequence of every duty demand. It is specifically linked to cases involving fraud, collusion, wilful misstatement, suppression of facts, or contravention with intent to evade duty.

11.4 The Hon'ble Supreme Court in *Union of India v. Rajasthan Spinning & Weaving Mills, 2009 (238) ELT 3 (SC)*, clarified that for imposition of penalty under Section 11AC, the conditions mentioned in the section must be strictly satisfied. The Court held that mere non-payment or short-payment of duty is not sufficient; there must be evidence of deliberate intent to evade duty.

11.5 Further, in *Pratibha Processors v. Union of India, 1996 (88) ELT 12 (SC)*, the Supreme Court held that penalty and interest are consequences of failure to pay duty when such duty is legally payable. The Court observed that penalty

is not leviable where the demand itself is unsustainable or where the issue is interpretational and involves no mala fide intent.

11.6 In the present case, we have already held that Section 4A is not applicable to the impugned goods and that the valuation adopted by the Appellant under Section 4 was legally correct. Once the very foundation of the demand fails on merits, the consequential liability to interest and penalty necessarily collapses.

11.7 It is well settled that where the dispute pertains to interpretation of law and the assessee has acted in a bona fide manner, penalty is not warranted. In *Hindustan Steel Ltd. v. State of Orissa*, (1978) 2 ELT (J159) (SC), though in the context of sales tax, the Supreme Court laid down the principle that penalty is not to be imposed for mere technical or venial breach of law without contumacious conduct. This principle has consistently been applied in excise jurisprudence as well.

11.8 As regards interest, it is compensatory in nature and becomes payable only when duty is legally due and payable. Since we have held that no differential duty is payable, the question of interest does not arise. Even

otherwise, when the demand itself is set aside on merits and limitation, interest cannot survive independently.

11.9 In view of the above discussion, the imposition of penalty under Section 11AC is unsustainable. The demand of interest under Section 11AA also cannot survive.

Issue (iii) is decided in favour of the Appellant.

12. In view of the findings on merits and limitation, the impugned Order-in-Original No. 26/2023 (Commr.) dated 31.05.2023 is set aside.

13. The appeal stands allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 16.03.2026)

Sd/-  
**(VASA SESHAGIRI RAO)**  
MEMBER (TECHNICAL)

Sd/-  
**(P. DINESHA)**  
MEMBER (JUDICIAL)