

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Excise Appeal No. 51278 of 2025

(Arising out of Order-in-Original No. 181/2025-CE dated 31.01.2025 passed by the Additional Director General (Adjudication), New Delhi)

Sanjeev Khera

s/o Sh. L.R.Khera, Aged 54 years,
C-1A/117B,Janakpuri, New Delhi

...Appellant

VERSUS

Additional Director General (Adjudication),

Directorate General of GST Intelligence,
(Adjudication Cell),
West Block No. 8, Wing No. 6,
2nd Floor, R.K. Puram,
New Delhi – 110066.

...Respondent

WITH

E/51279/2025
E/51364 /2025

E/51280/2025

E/51281/2025

APPEARANCE:

Shri Monish Panda, Shri Anmol Jassal and Ms. Amrita Singh and Shri Jayant Kumar, advocates for the appellant

Shri Mihir Ranjan, Special Counsel for the department and Shri Bhagwat Dayal, authorised representative of the department

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

Date of Hearing: 05.02.2026
Date of Decision: 29.04.2026

FINAL ORDER NO's. 50810-50814/2026

JUSTICE DILIP GUPTA:

The issue that arises for consideration in all the aforesaid five appeals is whether penalty under rule 26 of the Central Excise Rules, 2002¹ can be sustained upon all the five appellants.

1. the Central Excise Rules

2. Detailed facts have been stated in Excise Appeal No. 51564 of 2025 that has been decided by order of date.
3. Shri Monish Panda, learned counsel for the appellants assisted by Shri Anmol Jassal and Ms. Amrita Singh and Shri Jayant Kumar, submitted that the impugned order does not confiscate the goods nor is there any finding that the goods are liable to confiscation and only while imposing penalty under rule 26 of the Central Excise Rules it has been stated that penalty has been imposed under rule 26 of the Central Excise Rules since the goods are liable to confiscation.
4. Shri Mihir Ranjan, learned special counsel and Shri Bhagwat Dayal, learned authorised representative appearing of the department, however, supported the imposition of penalties under rule 26 of the Central Excise Rules.
5. The submissions advanced by the learned counsel for the appellants and the learned special counsel appearing for the department on the imposition of penalty under rule 26 of the Central Excise Rules have been considered. In order to appreciate the contentions, it would be appropriate to reproduce rule 26 of the Central Excise Rules. They are as follows:

"26. Penalty for certain offences

(1) Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or rupees ten thousand, whichever is greater:

PROVIDED that where any proceeding for the person liable to pay duty have been concluded under clause (a)

or clause (d) of sub-section (1) of section 11AC of the Act in respect of duty, interest and penalty, all proceedings in respect of penalty against other persons, if any, in the said proceedings shall also be deemed to be concluded.”

6. It clearly transpires from the impugned order that there is no discussion in the order that the goods are liable to confiscation and it is only while imposing penalties under rule 26 of the Central Excise Rules that it has been observed that the goods are liable to confiscation. There has to be a discussion and a finding that the goods are liable to confiscation. In the absence of such a finding penalties under rule 26 of the Central Excise Rules could not have been imposed. This is clear from a bare perusal of rule 26(1) of the Central Excise Rules.

7. The view that has been taken finds support from the decision of the Tribunal in **Shri Ramesh Garg, Chairman of M/s K.S. Oil Ltd. vs. Commiissioner, CGST, Customs & Central Excise²** and the relevant portion of the order is reproduced below:

“5. In the impugned order, goods have not been confiscated nor have any goods been held liable to be confiscated. We, therefore find, the essential ingredient to impose penalty under Rule 26, namely, confiscation of the goods or goods are liable for confiscation, has not been fulfilled in this case. Therefore, the penalty could not have been imposed under Rule 26.”

8. In this view of the matter, penalties under rule 26 of the Central Excise Rules could not have been imposed.

9. The impugned order dated 31.01.2025 passed by the Additional Director General (Adjudication), New Delhi to the extent imposes

2. **Excise Appeal No. 51760 of 2017 decided on 09.12.2024**

penalties upon the appellants under rule 26 of the Central Excise Rules is, therefore, set aside and all the five appeal are allowed.

(Order pronounced on **29.04.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

Jyoti