

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH AT HYDERABAD**

Division Bench – Court No. – I

**Excise Appeal No. 26858 of 2013**

(Arising out of Order-in-Original No. 07/2013-Adjn (Commr) CE dt.18.03.2013 passed by  
Commissioner of Customs & Central Excise, Hyderabad-IV)

**M/s Philips Electronics India Ltd**

7, Justice Chandra Madhab Road,  
Kolkata – 700 020

.....Appellant

*VERSUS*

**Commissioner of Central Tax**

**Medchal - GST**

Posnett Bhawan, Tilak Road, Ramkoti,  
Hyderabad, Telangana – 500 001

.....Respondent

**Appearance**

Shri Prakash Shah, Advocate for the Appellant.

Shri K. Sreenivasa Reddy, AR for the Respondent.

**Coram: HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)  
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

**FINAL ORDER No. A/30278/2026**

Date of Hearing: 15.01.2026

Date of Decision: 14.05.2026

**[Order per: A.K. JYOTISHI]**

M/s Philips Electronics India Ltd (hereinafter referred to as appellants) are in appeal against OIO dt.18.03.2013 to the extent aggrieved by the said order (Impugned Order).

2. The brief facts of the case are that one M/s Quad Electronic Solutions Pvt Ltd (Quad) entered into an agreement with the appellant for manufacture of certain items in terms of agreement dt.01.04.2009. Based on the terms and conditions of the agreement, as also purchase agreement dt.01.04.2009, the department felt that M/s Quad and the appellant are 'interconnected undertakings' and therefore, they will be deemed to be related persons in terms of section 4(3)(b) of Central Excise Act, 1944 (CEA). Thereafter, value has to be determined in terms of Rule 9 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (CER). In other words, the assessable value declared by M/s Quad in terms

of said agreement was not considered as true transaction value for the purpose of discharging Central Excise duty and the price at which the appellants were selling to their related customers was considered as value for the purpose of discharging Central Excise duty in terms of Rule 9 of CER read with section 4(3)(b)(iv) of CEA. On adjudication, after examining the submissions made by M/s Quad, appellants and one Mr. Raminder Singh Soin, Managing Director of M/s Quad, the adjudicating authority, inter alia, confirmed the demand against M/s Quad along with equal penalty. In addition, penalty was imposed under Rule 26 of Central Excise Rules, 2002, against the appellant as also against Mr. Raminder Singh Soin. The impugned order passed is a common order in respect of 2 SCNs OR Nos.47/2012 & 130/2012. As against the said order, all the three aggrieved persons filed appeal before this Tribunal. M/s Quad filed Appeal No. E/26985/2013 and Mr. Raminder Singh Soin filed Appeal No. E/26986/2013.

3. Learned Advocate for the appellant has explained the background of this case and has relied on catena of judgments in support that correct appreciation of the terms and conditions of the agreement between the appellant and M/s Quad would show that the transaction was on principal-to-principal basis and they are not related within the meaning of section 4(3)(b) of CEA. He has further pointed out that though it has been alleged that they are interconnected undertakings and therefore, related persons, however, between them, there is no mutuality of interest and they are not related within the meaning of clause (ii) or (iii) or (iv) of section 4(3)(b) of CEA. Therefore, even if it is presumed that they are related undertakings, unless the department establishes that there exists relationship as described in clauses (ii) or (iii) or (iv), then for the assessment purpose, they cannot be considered as related persons.

4. Another ground taken is that no penalty could have been imposed on the appellant under Rule 26 of the CER, inasmuch as, in order to invoke Rule 26, the goods have to be liable to confiscation, whereas, in this case, as the charges of undervaluation is unsubstantiated, this essential ingredient for invoking Rule 26 is missing. Additionally, he has further argued that the appellants are a body corporate, which does not have an independent mind like human being, thus, it could not have knowledge that goods were liable for confiscation and hence, no penalty can be imposed on them under Rule

26. In this regard, they have relied on the following judgments, including the judgment of the Larger Bench of the Tribunal in the case of Steel Tubes of India Ltd Vs CCE [2007 (217) ELT 506 (Tri-LB)].

- a) Indian Roadways Corporation Ltd Vs Commissioner [2005 (187) ELT 321 (Tri)]
- b) Ispat Industries Ltd Vs CCE & C, Aurangabad [2008 (226) ELT 218 (Tri-Bom)]
- c) Nasik Strips Pvt Ltd Vs CCE, Nasik [2008 (226) ELT 410 (Tri-Mum)]

5. He has further argued that in the absence of any one of the four sub-clauses of Rule 25(1) of the Rules, the findings that the goods were liable for confiscation by the adjudicating authority is ex-facie untenable in law and therefore, liable to be set aside, especially since SCN did not specify or invoke the sub-clause of Rule 25(1) of the Rules, under which the goods were liable to be confiscated.

6. Learned AR, on the other hand, apart from reiterating the findings, has submitted that the term 'person' used under Rule 26 includes juristic person also. In support thereof, he has relied on certain judgments, as under, including the judgment of Hon'ble Apex Court in the case of Aggarwal Trading Corporation & others Vs Asst. Collector of Customs [1983 (13) ELT 1467 (SC)].

- a) Homang India Pvt Ltd Vs CCE, ST & C, Bangalore-II [2017 (357) ELT 1194 (Tri-Bang)]
- b) Apple Sponge & Power Ltd Vs CST, Audit-I [2018 (362) ELT 894 (Tri-Mum)]
- c) Krishna Metal Corporation Vs CCE, Ahmedabad [2010 (262) ELT 377 (Tri-Ahmd)]
- d) CC& CE, Nagpur Vs Ispat Industries Ltd [2015 (324) ELT 670 (SC)]
- e) Banwarilal Jaipuria Vs Sitaram Jaipuria [1971 (3) TMI 78 – High Court of Calcutta]
- f) CCE, Aurangabad Vs Goodyear South Asia Tyres Pvt Ltd [2015 (322) ELT 389 (SC)]

7. Heard both sides and perused the records.

8. Before we proceed to examine the submissions from both sides, we find that insofar as the appeals filed by M/s Quad and Mr. Raminder Singh Soin, they have already been disposed of by this Tribunal. In the case of M/s Quad, the Tribunal, vide its Final Order No. A/30359-30360/2025 dt.10.09.2025, inter alia, held that the said appeals are disposed of as abated. The relevant para of the order is cited below.

*"Nobody appeared on behalf of the appellant. However, learned AR points out that the appellant company has already been ordered for winding up by the Hon'ble High Court of Telangana vide Order dt.06.12.2018 in CP No. 92 & 93/2015.*

2. *Accordingly, the appeals are disposed of as abated."*

9. In the case of Mr. Raminder Singh Soin, the Tribunal, vide its Final Order No. A/30425/2025 dt.16.10.2025, the appeal was dismissed for default. The relevant para of the order is cited below.

*"2. On perusal of the record, it appears from the order sheets that the appellant is not interested pursuing their appeal. Therefore, the appeal is liable to be dismissed for default.*

3. *Accordingly, the appeal is dismissed for default."*

10. Therefore, in view of the disposal of the appeals arising against the same impugned order, against which the present appellant has also come before the Tribunal, only to the extent aggrieved, the impugned order qua M/s Quad and Mr. Raminder Singh Soin, has attained finality. Therefore, we cannot interfere with the observations and findings establishing undervaluation in respect of goods cleared by M/s Quad or for that matter, the role played by Mr. Raminder Singh Soin and also cannot interfere with the demand of differential duty as well as imposition of penalty in the present appeal. In the backdrop of this, we now proceed to decide whether penalty can be imposed under Rule 26 on the appellant or otherwise. Before we proceed further, Rule 26 is cited below for ease of reference.

**26. Penalty for certain offenses.**

*(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 [two thousand rupees], 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.*

(2) Any person, who issues -

*(i) an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; or*

*(ii) any other document or abets in making such document, on the basis of which the user of said invoice or document is likely to take or has taken any ineligible benefit under the Act or the rules made thereunder like claiming of CENVAT credit under the CENVAT Credit Rules, 2004 or refund,*

*shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is greater.*

11. A plain reading of the above rule would indicate that 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 two thousand rupees, whichever is greater. Therefore, the first issue is whether the expression 'person' used in Rule 26 covers a body corporate or it only covers individuals and non-juristic persons. We find that on one hand, the appellants have relied on the judgment of Larger Bench in the case of Steel Tubes of India Ltd Vs CCE (supra), wherein the Larger Bench examined this issue in the context of erstwhile Rule 209A of CER, 1944 and thereafter, considered the judgments passed by Division Benches of the Tribunal in the case of Indian Roadways Corporation Ltd Vs CCE, Rajkot (supra) and Shaper Chemicals Ltd Vs CCE, Mumbai-VII [2004 (173) ELT 327 (Tri)], as also the judgments of Hon'ble High Court of Bombay in the case of Jayantilal Thakkar & Co Vs UOI [2006 (195) ELT 9 (Bom)], to arrive at the conclusion that penalty under Rule 209A cannot be imposed on a body corporate. The relevant para is cited below.

*"9. As regards the second issue in reference it can be noticed that the Rule 209A pre-supposes a knowledge as to the liability of the confiscation of the goods which being transported etc. It was argued extensively by the authorized representative for the department that the expression "Any person" would include any company or association or body of individual, whether incorporated or not. Reliance was also placed on the definition of the word person in Section 3(42) of The General Clauses Act, 1897, for this proposition. Undoubtedly the expression "Any person"*

*would include a natural and unnatural person i.e. it would include in its ambit any company or corporation or body of individual/s. The moot question is that whether such unnatural body corporate has its own mind, to have knowledge that the goods are liable for confiscation. It is common knowledge that a corporation/company is run by a Board of Directors, who are individuals. They are the trustees of the shareholders of the corporation/company. The decisions taken by the Board of Directors would be for the company but it will not be a decision of the corporation/company. In a given situation, if the Board of Directors decide between themselves, and pass a resolution to engage in the act of evasion of the duty on excisable goods it would be an act of individuals who did so for their personal gain. The corporation/company, stands to no gain out of misdemeanors of the individuals i.e. Board of Directors. In the eyes of law, the corporate entity being a person would be held responsible for the act of the natural persons. But in order to punish the guilty individuals, the veil of corporate entity had to be lifted to understand the correct picture. Precisely for these reasons only the provisions of Rule 209A came in to statute, in order to punish the guilty acting behind the veil of corporation/company. If in a given situation a parcel booking clerk of the Indian Railways, in order to have some personal gain, colludes with others to book the goods without any duty paying documents (though he has knowledge that the goods have to be booked on the basis of duty paying documents) and the goods are seized by the authorities at the destination point, can the Indian Railways be penalized under the provisions of Rule 209A of the Central Excise Rules, 1944? The resounding answer would be "NO" as Indian Railways is not having any knowledge that the goods so booked are liable for confiscation. The booking clerk is in knowledge and hence he is liable to be penalized under the said Rule 209A. Accordingly, we find that the conclusion reached by the Tribunal in the case of Indian Roadways Corporation Ltd. (supra) is also correct and does not require any reconsideration."*

12. On the other hand, learned AR has relied on the judgment of Hon'ble Supreme Court in the case of Aggarwal Trading Corporation & others Vs Asst. Collector of Customs (supra), wherein the Hon'ble Supreme Court examined the issue whether penalty can be imposed on a body corporate when the expression used is 'person' in the context of Foreign Exchange Regulation Act (FERA) or in the context of Sea Customs Act. The Hon'ble Supreme Court observed that there is no specific definition of 'person' in either of these Acts, but there is a definition in section 2(42) of the General Clauses Act, 1897 or section 2(3) of the Act of 1868 would be applicable in the said Acts in both of which 'person' has been defined as including any company or association or body or individuals, whether incorporated or not. The relevant para is cited below.

*"7. The second contention that because the firm is not a legal entity, it cannot be a person within the meaning of Section 8 of the Foreign Exchange Regulation Act or of Section 167(3), (8) and (37) of the Sea Customs Act, is equally untenable. There is of course, no definition of 'person' in either of these Acts but the definition in Section 2(42) of the General Clauses Act, 1897, or Section 2(3) of the Act of 1868 would be*

*applicable to the said Acts in both of which 'person' has been defined as including any company or association or body of individuals whether incorporated or not. It is of course contended that this definition does not apply to a firm which is not a natural person and has no legal existence, as such clauses (3), (8) and (37) of Section 167 of the Sea Customs Act are inapplicable to the appellant firm. In our view, the explanation to Section 23C clearly negatives this contention. In that a company for the purposes in that section is defined to mean any body corporate and includes a firm or other association of individuals and a Director in relation to a firm means a partner in the firm. The High Court was clearly right in holding that once it is found that there has been a contravention of any of the provisions of the Foreign Exchange Regulation Act read with Sea Customs Act by a firm, the partners of it who are in-charge of its business or are responsible for the conduct of the same, cannot escape liability, unless it is proved by them that the contravention took place without their knowledge or they exercised all due diligence to prevent such contravention."*

13. We find that in various other judgments cited by learned Advocate in support that Rule 26 cannot be invoked against a body corporate, they have mostly relied on the Larger Bench judgment in the case of Steel Tubes of India Ltd Vs CCE (supra). It is also noted that though the judgment is in the context of Rule 209A of erstwhile CER, 1944, however, the provisions under Rule 26 and Rule 209A are pari materia, inasmuch as the same expression has been incorporated except for the extent of penalty and certain other additional conditions. For the sake of reference, Rule 209A is also cited below.

*"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 three times the value of such goods or five thousand rupees, whichever is greater."*

14. We also find that though this is in the context of another Act viz., Sea Customs Act and FERA, however, the ratio laid down by the Hon'ble Supreme Court in the case of Aggarwal Trading Corporation & others Vs Asst. Collector of Customs (supra) would be equally relevant. It is also to be noted that though the expression 'person' has not been defined in the CEA or Rules and therefore, the recourse has to be taken to General Clauses Act and according to which, the expression 'person' will include a body corporate also apart from natural person. Therefore, in view of the submission from both sides, we find that the grounds taken by the appellant that penalty cannot be imposed on a body corporate under Rule 26 is not tenable.

15. We also note that though there is no definition of the expression 'person' under CEA or Rules, we find that under section 4(3)(b) of the CEA, 'person' shall be deemed to be related if, inter alia, they are relatives. In other words, here the expression 'person' is not only covering interconnected undertakings or body corporates but also natural person as no two body corporates could be relatives. This also supports the view that expression 'person' includes body corporate also and not only natural person

16. Coming to the second ground that in this case the goods were not liable for confiscation, which is an essential ingredient for invoking Rule 26, we find that as per Rule 25 of CER, 2002, if, inter alia, any manufacturer removes any excisable goods in contravention of any of the provisions of these Rules or contravenes any of the provisions of these Rules, with an intent to evade payment of duty then such goods shall be liable to confiscation. We find that in this case, the allegation of undervaluation of the goods resulting in non-payment of duty has already been established by the adjudicating authority. Further, though the appeals were filed by M/s Quad and Mr. Raminder Singh Soin, however, their appeals were disposed of, as discussed supra, and therefore, the findings of the adjudicating authority qua M/s Quad and Mr. Raminder Singh Soin, has attained finality. We also note that it is not necessary that goods have to be perforce confiscated for invoking Rule 26 and if the goods are otherwise confiscable then also Rule 26 is invocable. In this case, as per the impugned order, the undervaluation was established and differential duty has been confirmed in respect of certain goods cleared by M/s Quad. We also find that this issue has been dealt with extensively by the adjudicating authority at Para 23.23 of the impugned order. He has also taken note of the fact that the appellants had adopted novel modus operandi to escape the duty liability. He has also noted that the appellants had entered into an agreement with M/s Quad, which, inter alia, stipulated that goods were to be supplied to place where the appellant directs. In fact, he has observed that not only M/s Quad, but even the appellant did not furnish required information for almost one year and had adopted delaying tactics, which can be evidenced from correspondences made with the Range Officer as detailed in Para 5 to 8 of the Notice. It was also pointed out that the appellants were fully aware that the assessable value adopted by M/s Quad was not inclusive of technical

knowhow charges, which would lead to short payment of Central Excise duty on finished goods.

17. Therefore, we find that there is enough evidence to suggest that the appellants were aware that duty is being discharged at a value, which is not legally correct and they were also aware of the provisions that if any goods are cleared in contravention of any provisions under the Rules, then such cleared goods are also liable for confiscation. Therefore, they cannot take the plea that they were not aware about the fact that the said goods were liable for confiscation. In this case, M/s Quad has clearly contravened the provisions of the Act and the Rules and therefore, the said goods are also liable for confiscation. This aspect has already been settled finally as the observation of the adjudicating authority qua M/s Quad has attained finality. Therefore, there is enough material on record to suggest that appellant cannot say that they had no knowledge or they had no reason to believe that the goods, which were being cleared as per their dictated price in a particular manner by M/s Quad were not liable for confiscation. In fact, we note that in order to cover this against any eventual demand of Central Excise duty, which may be raised by the department on the grounds of undervaluation, they have made specific provision in the agreement itself binding M/s Quad to pay Central Excise duty.

18. In view of the above discussion and findings, we find that the impugned order, to the extent appealed by the appellant i.e., against imposition of penalty under Rule 26, does not suffer from any infirmity and is accordingly, upheld.

19. Appeal dismissed.

(Pronounced in the Open Court on 14.05.2026)

**(A.K. JYOTISHI)**  
**MEMBER (TECHNICAL)**

**(ANGAD PRASAD)**  
**MEMBER (JUDICIAL)**