IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 75489 of 2020

(Arising out of Order-in-Appeal No. 06/Kol-N/Kol/2020 dated 06.08.2020 passed by the Commissioner of C.G.S.T. and C.X., Kolkata Appeals-I Commissionerate, G.S.T. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

M/s. Power Tools and Accessories : **Appellant**
512, Jessore Road, Bangur Avenue,
North 24-Parganas, Kolkata – 700 055

VERSUS

Principal Commissioner of C.G.S.T. and C.X. : **Respondent**
Kolkata North C.G.S.T. and C.X. Commissionerate,
G.S.T. Bhawan, 180, Shantipally,
Rajdanga Main Road, Kolkata – 700 107

APPEARANCE:

Shri Aditya Dutta, Advocate, for the Appellant

Shri S.K. Jha, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75899 / 2026

DATE OF HEARING: 17.07.2026

DATE OF DECISION: 20.07.2026

ORDER:

The present appeal has been filed assailing the Order-in-Appeal No. 06/Kol-N/Kol/2020 dated 06.08.2020 passed by the Commissioner of C.G.S.T. and C.X., Kolkata Appeals-I Commissionerate, G.S.T. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107, wherein the Ld. Commissioner (Appeals) has upheld the entire demand of CE duty (including E Cess) amounting to Rs. 6,72,997/- along with interest and equal penalty of Rs. 6,72,997/- confirmed in the Order-in-Original No. CGST&CX/KDH/AC-31/2017-18 dated 09.01.2018

2, The facts of the case are that M/s. Power Tools and Accessories (herein after referred as the Appellant) are engaged in manufacture of' Aluminium Baxter Flyer (Tariff Heading 84483320) on job-work basis for the principal manufacturer 'Sugan Engineering Private Limited' who supplied the 'Aluminium Ingots' as raw materials for such job work. The principal manufacturer in turn supply/sell the same to jute mills for subsequent use for making jute textiles. The Appellant did not pay central excise duty on such Baxter Flyer manufactured by them, by claiming the duty exemption available under N.F. No. 6/2006-CE dated 01.03.2006 superseded by 12/2012-CE dated 17.03.2012.

2.1. On the basis of the audit conducted on the records of the Appellant, the Additional Commissioner Central Excise, Audit-I Commissionerate, issued a SCN No. 09 dated 02.05.2016 for the period April, 2011 to December 2012, demanding CE duty of Rs. 6,72,997/- along with interest and equal penalty. The said Notice was issued on the allegation that the Appellant could not provide any evidence to show that they had fulfilled the condition No.2 specified in the said exemption Notification. As per condition 2 specified in relation to Sl. No.13 of the Notification 6/2006-CE dated 01.03.2006 superseded by Notification 12/2012-CE dated 17.03.2012, the Appellant is required to prove to the satisfaction of the Dy. Commissioner or Asst. Commissioner of Central Excise that such goods are cleared for the intended use i.e. Goods required by a jute mill for making jute textile. Accordingly, the SCN charged that the Appellant had cleared the goods without payment of duty with deliberate intention to evade payment of duty.

2.2. On adjudication, the Assistant Commissioner CGST & CX, Khardah Division, Kolkata North Commissionerate vide his Order-in-Original No. CGST&CX/KDH/AC-31/2017-18 dated 09.01.2018 confirmed the entire demand of CE duty (including E Cess) amounting to Rs. 6,72,997/- along with interest and imposed equal amount of duty as penalty on the following grounds:-

(a) The assessee had the intention to suppress the material fact of such job work.

(b) Subject goods having Tariff head number 84483320 is exempted if the goods are required by the Jute Mills for making jute textiles and such exemption shall be allowed if it has been proved to the satisfaction of an officer of the rank of Deputy Commissioner of Central Excise or Assistant Commissioner Central Excise that such goods are cleared for the intended used specified in Column (3) of the said Notification. The permission of AC/DC of Central Excise is mandatory for availment of exemption.

(c) The Noticee could not confirm with documentary evidence that all quantity of Aluminium Baxter Flyer manufactured by them were sold to jute mills for making jute textiles. Accordingly, the final use required by the jute mills for making jute textiles of subject goods was not confirmed by the noticee and as such availment of the exemption notification No. 06/2006 dated 01.03.2006 is not available.

(d) The benefit of N.F. No, 06/2006-CE dated 01.03.2006 cannot be extended to noticee who manufactured the subject goods as job worker and supplied the subject goods to the Principal Manufacturers not the jute mills.

2.3. On appeal, the Ld. Commissioner (Appeal), Appeal-1 CGST&CX Commissionerate vide his Order-in-Appeal No. 06/Kol-N/Kol/2020 dated 06.08.2020, upheld the demands confirmed in the Order-in-Original. Being aggrieved with the confirmation of the demands of central excise duty along with interest and penalty, the Appellant has filed this appeal.

3. The Appellant submits that they have manufactured the goods namely Aluminium Baxter Flyer on job work basis for the principal manufacturer 'Sugan Engineering Private Limited' who supplied the 'Aluminium Ingots' as raw materials for such job work; the principal manufacturer in turn supplied/sold the goods to jute mills for subsequent use for making jute textiles. They submit that the Aluminium Baxter Flyer have the exclusive ultimate use in the jute industry only. The appellant stresses that in the instant case, the Principal 'Sugan Engineering Private Limited' has got such items manufactured through the job worker and undertaken the process of heat treatment on the same; that subsequently, the 'Duly Dynamically Balanced, heat treated Baxter Flyers and after fitment of all essential inserts, were supplied to jute the mills. In support of this claim, the Appellant submitted Sample invoices of such supply made by the principal manufacturer to jute mills.

3.1. The Appellant also submits that such 'Baxter Flyer' manufactured by them can only be used in a jute mill for making jute textile. That in the present case, in the intermediate stage the principal has done some treatment and supplied the said goods for ultimate use in a jute mill. Thus, the Appellant submits that they have fulfilled the condition no.2 as specified in the Notification No. 6/2006-CE dated 01.03.2006 as superseded by N.F. No. 12/2012-CE dated 20.05.2012. Further, it is mentioned that as per Condition No. 2, the benefit of the exemption shall be allowed if it is proved to the satisfaction of AC/DC that the scheduled goods had been cleared for use in jute mills for making jute textiles; however, the department has interpreted that permission from the jurisdictional AC/DC is mandatory for allowing the exemption. In this regard, the Appellant submits that non intimation to the jurisdictional AC/DC can at the maximum be considered only as a procedural breach and the same cannot result in denial of the said exemption.

3.2. In support of their contention that benefit of the exemption cannot be denied on account of procedural infirmity, the Appellant relied on the judgment of the Hon'ble Supreme Court in the case of *Sambhaji v Gangabai [2009(240) E.L.T. 161(SC)].*

3.3. Accordingly, the Appellant contends that demand of central excise duty by denying the exemption, is legally not sustainable and prayed for setting aside the same.

4. The Ld. Authorized Representative representing the Revenue submits that the exemption under N.F. 6/2006-CE dated 01.03.2006 as superseded by N.F. No. 12/2012-CE dated 20.05.2012 can be allowed only if it has been proved to the satisfaction of AC/DC that the scheduled goods had been cleared for use in jute mills for making jute textile. He argues that in the present case, the goods cleared by the appellant would be of no use in the jute mills unless they are

subjected to some processing by the Principal Manufacturer and hence the goods cleared by the appellant does not fit the condition of intended use in the jute mills. Further, it is also the Revenue's contention that the appellant could not produce any documentary evidencing that they had given any intimation to their jurisdictional CE officer regarding such clearance without payment of duty. Accordingly, the Ld. Authorized Representative of the Revenue submits that the Appellant has not fulfilled the condition 2 of the N.F. 6/2006-CE dated 01.03.2006 as superseded by N.F. No. 12/2012-CE dated 20.05.2012. Thus, he supported the impugned order confirming the demands.

5. Heard both sides and perused the appeal records.

6. I find that the Appellant manufactured Aluminium Baxter Flyer on job-work basis for the principal manufacturer 'Sugan Engineering Private Limited' who supplied the 'Aluminium Ingots' as raw materials for such job work. The principal manufacturer in turn supplied/sold the said goods to jute mills for subsequent use for making jute textiles. The Appellant claimed the duty exemption available under N.F. No. 6/2006-CE dated 01.03.2006 and 12/2012-CE dated 17.03.201 and did not pay central excise duty on such Baxter Flyer manufactured by them. The allegation of the Department is that the said exemption can be allowed only if it has been proved to the satisfaction of AC/DC that the scheduled goods had been cleared for use in jute mills for making jute textile and that in the present case, the goods cleared by the Appellant would be of no use in the jute mills unless they are subjected to some processing by the Principal Manufacturer. Hence, it is the Revenue's case that the

goods cleared by the Appellant do not fit the condition of intended use in the jute mills.

6.1. Before going into the eligibility of the exemption, it is required to analyze what is a 'Baxter Flyer'. I find that 'Baxter Flyer' has been defined as under:

> *Baxter flyer is a crucial component in the jute industry, primarily used in jute spinning frames. It facilitates the twisting of fibre assembly into yarn and is essential for the winding of yarn in a bobbin. Recent modifications to the Baxter flyer assembly have improved efficiency, reducing weight and increasing yarn content per doff per bobbin, which enhances spinning efficiency.*

6.2. From the definition of 'Baxter Flyer' mentioned above, I find that it is a typical part of a jute spinning machine which can only be used as a part of a jute spinning frame in a jute manufacturing industry. It cannot be used elsewhere other than in a jute mill for making jute textile. In the instant case, I find that the Principal 'Sugan Engineering Private Limited' has got the goods manufactured through the job worker and undertaken the process of heat treatment on the same. Subsequently, the 'Duly Dynamically Balanced, heat treated Baxter Flyers were supplied to jute mills. In support of this claim, the Appellant submitted Sample invoice of such supply made by the principal manufacturer to jute mills. For ready reference, some of the Invoices raised by the Principal are extracted below:

Appeal No.: E/75489/2020-SM

TAX INVOICE

SELLER'S COPY

Subject to Kolkata Jurisdiction

TAX INVOICE NO. SUG/CEX/014/12-13

Dated :24/04/2012

Messers :ADITYA TRANSLINK (P) LTD.(SAMNUGGAR JUTE FACTORY) Dr.
9, INDIA EXCHANGE PLACE, KOLKATA
BUYER'S VATNO-19200292036

SUGAN ENGINEERING PRIVATE LIMITED
MANUFACTURER OF BAUXTER TYPE ALLUMINIUM FLYER &
JUTE MILLS SPARE PARTS

REGD. OFFICE:
130A & B, DHARMATALLA ROAD
GHUSURI, HOWRAH - 711 107
Phone:2655-5402/5017/6948
FAX :033-2655-6781

FACTORY:
130A & B, DHARMATALLA ROAD,
GHUSURI, HOWRAH - 711 107
Phone:2655-5402/5017/6948
FAX :033-2655-6781

Interest will be charged @18% per annum on bills if not paid within 30 days.

Sl. No.	Quantity	DESCRIPTION	Code No.	Rate	Unit	Amount
	100	BAUXTER FLYER 4.1/4" A/D SPG.DULY DYNAMICALLY BALANCED HEAT TREATED AND FITTED WITH ALL ESSENTIAL INSERTS.		600.00	PCS	60000.00
		Add : W.B.V.A.T.-		4.00%		60000.00
						2400.00
						62400.00

Rs. Sixty two thousand four hundred only

Total Rs. 62400.00

E.& O.E.

Challan No. 13/SJ00071 dt. 14/04/12
Challan No. CEN/044/12-13 dt. 12/04/12
13/SJ00140 dt. 19/04/12
Consignment Note No. dt.

for SUGAN ENGINEERING PVT. LTD.

Mandal

TAX INVOICE

.no. 19718907020
.no. 19718907214
X TAX REGISTRATION NO.AADCS7253QST001

Subject to Kolkata Jurisdiction

SELLER'S COPY

INVOICE NO. SUG/CEN/1030/11-12

Dated :27/02/2012

sers :ADITYA TRANSLINK (P) LTD.(SAMNUGGAR JUTE FACTORY) Dr.
9, INDIA EXCHANGE PLACE, KOLKATA
BUYER'S VATNO-19200292036

TO SUGAN ENGINEERING PRIVATE LIMITED
MANUFACTURER OF BAUXTER TYPE ALLUMINIUM FLYER &
JUTE MILLS SPARE PARTS

D. OFFICE:
A & B, DHARMATALLA ROAD
SURI, HOWRAH - 711 107
ne:2655-5402/5017/6948
:033-2655-6781

FACTORY:
130A & B, DHARMATALLA ROAD,
GHUSURI, HOWRAH - 711 107
Phone:2655-5402/5017/6948
FAX :033-2655-6781.

Interest will be charged @18% per annum on bills if not paid within 30 days.

Quantity	DESCRIPTION	Code No.	Rate	Unit	Amount
100	BAUXTER FLYER 4.1/4" A/D SPG.DULY DYNAMICALLY BALANCED HEAT TREATED AND FITTED WITH ALL ESSENTIAL INSERTS.		600.00	PCS	60000.00
	dd : W.B.V.A.T.-		4.00%		60000.00
					2400.00
					62400.00

Sixty two thousand four hundred only

Total Rs. 62400.00

...res:
...11/SJ01290
Challan No. CEN/1053/11-12 dt. 31/03/11
dt. 12/02/12
...Note No. dt.
dt.

E.& O.E.

for SUGAN ENGINEERING PVT. LTD.

6.3. From the Invoices extracted above, I find that the goods were ultimately supplied/sold to Jute mills for making jute textiles. In the present case, I find that the exemption claimed by the Appellant has been denied on the ground that the Appellant has not fulfilled the condition 2 of the N.F. 6/2006-CE dated 01.03.2006 as superseded by N.F. No. 12/2012-CE dated 20.05.2012. For ready reference, the said condition no.2 is extracted below:

> *2. The exemption shall be allowed if it has been proved to the satisfaction of an officer not below the rank of the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction, that such goods are cleared for the intended use specified in column (3) of the Table.*

The intended use as specified in Column (3) of the Table is as below:-

13.	*8445, 8448, 8483 (except 8483 10 10) 8484 8485 90 00*	*Goods required by a jute mill for making jute textiles*	*Nil*	*2*

6.4. From the above, I find that as per the condition no.2, the exemption under N.F. 6/2006-CE dated 01.03.2006 as superseded by N.F. No. 12/2012-CE dated 20.05.2012, can be allowed if it is proved to the satisfaction of AC/DC that the scheduled goods had been cleared for use in jute mills for making jute textiles. I find that the goods manufactured by the Appellant on job work and cleared to the principal can be only used in a Jute mill. In this case, the principal has undertaken some heat treatment process and supplied the said goods to Jute mills. Thus, I find that the goods cleared by the Appellant were ultimately used in a jute mill only. I find that in the condition no.2, nowhere it is mentioned that the goods should be used in a jute mill as it is or the goods manufactured should be supplied directly to a jute mill. The exemption is allowed if the goods cleared are intended for use in a jute mill. The words 'intended for use' is wide enough to cover the present situation where the goods manufactured by the appellant were ultimately used in a jute mill after undergoing some process of heat treatment etc at the hands of the principal.

6.5. Further, I find that the impugned order denied the exemption on the procedural ground that the appellant could not produce any document, evidencing that they had given any intimation to their jurisdictional Central Excise officer regarding such clearance without payment of duty. I find that the notifications 6/2006-CE dated 01.03.2006, superseded by N.F. No. 12/2012-CE dated 20.05.2012, does not prescribe any condition that the Appellant should give any prior or post intimation to their jurisdictional Central Excise officer regarding clearance of the goods without payment of duty. Condition no.2 says that the Appellant should prove to the satisfaction of AC/DC that the scheduled goods had been cleared for use in jute mills for making jute textile. I find that the Department has interpreted the condition that permission from the jurisdictional

AC/DC is mandatory for allowing the exemption. In this regard, I observe that non intimation to the jurisdictional AC/DC can at the maximum be considered only as a procedural breach and the same cannot result in denial of the said exemption. In support of this view that benefit of the exemption cannot be denied on account of procedural infirmity, I rely on the judgment of the Hon'ble Supreme Court in the case of *Sambhaji v Gangabai [2009(240) E.L.T. 161(SC)].* For ready reference, the relevant portion of the said decision is reproduced below:

> *"11…….A procedural law should not ordinarily be construed as mandatory, the procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed."*

6.6. Further, I find that the invoices submitted by the Appellant clearly indicate that after processing, the Principal has cleared the goods to the Jute mills. I find that the department has not come up with any evidence to the effect that either the Appellant or the Principal has cleared the goods to any other persons other than jute mills. Thus, I do not find any merit in denial of the benefit of exemption claimed by the Appellant in terms of the notifications6/2006-CE dated 01.03.2006, superseded by N.F. No. 12/2012-CE dated 20.05.2012. Thus, I hold that the Appellant has fulfilled the condition no.2 of the Notifications 6/2006-CE dated 01.03.2006, superseded by N.F. No. 12/2012-CE dated 20.05.2012 and hence the demands of central excise duty on the charge that the Appellant had cleared the goods without payment of duty with deliberate intention to evade payment of duty since the benefit of the said exemption notification is not available to the appellant, is not sustainable. Accordingly, I set aside the demand of central excise duty confirmed in the impugned order. As the duty demanded is not sustainable the question of demanding interest or imposing penalty does not arise and hence, the same also stand set aside.

7. In the result, I set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on **20.07.2026**)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd