CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Excise Appeal No. 50309 of 2026

[Arising out of Order-in-Appeal No. 109(SCM)ST/JDR/2025 dated 18.12.2025 passed by the Commissioner of Central Excise & CGST (Appeals), Jodhpur]

M/s. Mangalam Cement Limited **...Appellant**
PO Aditya Nagar, Morak,
Distt. Kota

VERSUS

Commissioner of Central Excise &
CGST – Udaipur **...Respondent**
142-B, Hiran Magri, Sec-11,
Udaipur

APPEARANCE:
Shri Shivam Bansal and Ms. Deepali, Advocates for the Appellant
Shri Srimali Sadashiv, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 01.09.2026
DATE OF DECISION: 01.09.2026

FINAL ORDER NO. 51431/2026

ASHOK JINDAL

The short issue to be decided in this matter is whether the demand of excise duty on the amount of sales tax subsidy received from the State Government of Rajasthan under Rajasthan Industrial Promotion Scheme, 2010 is includible in the assessable value of the goods cleared during the relevant period or not?

2. The facts of the case are as under:

2.1 The Appellant is, *inter alia*, engaged in the manufacturing of cement falling under Chapter 25 of the First Schedule to Central Excise Tariff Act, 1985 (for short "CETA"). The Appellant was duly registered under the Central Excise law having Registration No. AABCM6602QXM001.

2.2 The Appellant clears final products after paying appropriate Central Excise duty and filing the statutorily prescribed ER-1 returns of production and removal of goods from time to time. Further, the Appellant also discharges Value Added Tax ("VAT")/ Central Sales Tax ("CST") on the sales made by it.

2.3 During the relevant period, the appellant was availing the benefit of the Rajasthan Investment Promotion Scheme, 2010 (for short "RIPS"), notified by the State of Rajasthan with a view to promote investment within the State. In this regard, the Appellant also holds a valid Entitlement Certificate dated 25.8.2014 under RIPS, which entitled the appellant to an investment subsidy equivalent to 50% of the VAT/CST paid by it, as well as an employment generation subsidy equivalent to 5% of the VAT/CST paid by it.

2.4 The modalities of claim of the said subsidy under the RIPS are as follows:

- The Appellant pays the total VAT/CST charged at applicable rates on sale of goods to the State exchequer and files its VAT/CST returns.
- Thereafter, the amount of subsidy is worked out in terms of the RIPS and a claim in this regard is filed by the appellant.
- An order sanctioning the subsidy is passed by the appropriate authority.

- In terms of the RIPS, such subsidy is not granted in cash/ bank account of the appellant. The subsidy is instead credited to the sales tax account of the appellant, and the appellant receives the same by way of VAT challans, which are further utilized to discharge the output VAT/ CST liability of the appellant in the subsequent period.

2.5 In the above factual matrix, the Department, vide letter C. No. CE-20/R dated 10.7.2018, sought month-wise details of subsidies awarded to the appellant by the State Government along with details of goods cleared by the appellant. In response, the appellant, vide letter No. MCL/GST dated 1.8.2018, furnished the aforesaid details.

2.6 On the basis of the aforesaid, the impugned show cause notice was issued to the appellant proposing to demand and recover excise duty amounting to Rs.22,37,884/-, alleging that the sales tax subsidy received in the form of VAT challans, which is used to pay VAT/CST liability of the subsequent periods, amounts to retention of VAT/CST amount collected by the appellant from its customers and thus, is liable to be included in the transaction value of the final products of the appellant.

2.7 The adjudicating authority dropped the demand against the appellant. The Revenue challenged that order before the learned Commissioner (Appeals) and the learned Commissioner (Appeals) set aside the order passed by the adjudicating authority and confirmed the demand against the appellant holding that the sales tax subsidy is to be includable in the assessable value during the impugned period. Aggrieved from the said order, the appellant is before us.

3. Learned counsel for the appellant submits that the issue involved in this appeal is no more *rest integra* as has been decided in their favour by the various decisions of this Tribunal particularly in the case of **Harit Polytech Pvt. Ltd. Vs. CCE & GST, Jaipur-I reported as (2023) 13 Centax 264 (Tri.-Del.)**

4. On the other hand, learned Authorized Representative for the department reiterated the findings of the impugned order and prayed for dismissal of the appeal.

5. Heard the parties and consider the submissions.

6. We find that the issue has been dealt with by this Tribunal in the case of **Harit Polytech Pvt. Ltd. (supra),** wherein this Tribunal in paragraph 51 has held that the amount of subsidy under the promotion policy is not an additional consideration. The said view has been followed in the case of **K R N Alloys Pvt. Ltd. Vs. Commissioner of Central Excise & Central Goods and Service Tax, Jodhpur, Final Order No. 56058/2024 dated 18.07.2024,** wherein this Tribunal observed as under:

> *4. We have heard both the parties and perused the records of the case. The issue which arises for our consideration is whether the amount of subsidy received by the appellant under the Rajasthan Investment Promotion Scheme, 2010 from the State Government is includible in the assessable value of the goods cleared during the period in dispute in terms of the transaction value as defined in Section 4(3)(d)of the Act.*
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> *5. The learned counsel for the appellant apart from relying on several decisions of the Tribunal has referred to the recent decision in* ***Harit Polytech Pvt Ltd versus CCE & GST, Jaipur-I,***[2] *rendered by the Principal Bench on a reference made to resolve the difference of opinion. The learned Authorised Representative had*

very fairly accepted that the present issue has been decided in favour of the assessee.

6. Without going into the details of the RIPS, which has been considered in the earlier decisions, we would only like to state that the Government of Rajasthan from time to time had been issuing the said scheme with a view to promote investment under the category of 'Modernisation Enterprise' and generate employment opportunities. The issue whether the sales tax subsidy received from the Government of Rajasthan under RIPS is includible in the assessible value for the payment of excise duty has been the subject matter of challenge and decided in favour of the assessee in various decisions and, therefore, the issue is no longer res-integra. The references of some of the decisions as referred to by the learned Counsel for the appellant are as under: -

1. Rajasthan Digital Tiles (P) Ltd. Vs. Commissioner, Central Excise & CGST, Jaipur -[3]

2. Dhawan Box Sheet Containers Pvt. Ltd. Vs. Commissioner, Goods and Service Tax, Commissionerate, Alwar (Rajasthan) -[4]

3. Honda Motorcycle & Scooters India Pvt. Ltd. Vs. CGSTC & CE, Alwar -[5]

4. H-One India Pvt. Ltd. &Anr. Vs. CCE –[6]

5. Commissioner of Central Excise and Service Tax, Rajasthan Vs. Prem Jain Ispat Udyog Pvt. Ltd. –[7]

6. Shree Cement Ltd. Vs. CCE, Alwar –[8]

7. FFC Clutch India Pvt. Ltd. Vs. CCE –[9]

7. For the present controversy, we would place reliance on the latest decision in ***Harit Polytech*** *(supra), where on reference the issue was once again settled that in the promotion policy involved in the present case, the subsidy does not reduce the sales tax that is required to be paid by the assessee as the entire amount of sales tax collected by the assessee from the customer is paid. The subsidy amount, therefore, cannot be included in the transaction value for the purpose of levy of central excise duty under Section 4 of the Excise Act. Accordingly, it was concluded :-*

> *"**31**. In view of the aforesaid discussion, the reference is answered in the following manner:-*
>
> > ***a-*** *Subsidy under the promotion policy does not reduce the selling price;*
> >
> > ***b-*** *the amount of subsidy under the promotion policy is not an additional consideration;*
> >
> > ***c-*** *The decision of the Supreme Court in Super Synotex India would not be applicable to the present case;*

> ***d-*** *The subsidy amount under the promotion policy does not affect the selling price of the goods;*
>
> ***e-*** *Section 9 of the Rajasthan VAT Act, 2003 would have no application to the facts of the present case; and*
>
> ***f-*** *As neither party raised any objection on this issue, the reference has been answered."*

8. The principle of law that emerges from series of decisions is that the VAT amount paid by the assessee using VAT 37B challans would be construed as actual payment of VAT and thus will not be included in the transaction value in terms of Section 4(3)(d) of the Act. We are, therefore, of the considered view , that the impugned order holding otherwise needs to be set aside. In the present case also, the entire amount of sale tax collected from the customer is paid and not retained by the appellant. Since the matter is clearly covered on merits, we are not considering the other submissions made on the point of extended period of limitation or the liability towards interest and penalty, which otherwise do not survive .

9. In view of the settled law on the issue, the impugned order deserves to be set aside and the appeal, accordingly stands allowed.

7. We hold that as the issue has been settled in favour of the appellant that the sales tax subsidy received by the appellant from the State Government of Rajasthan under Industrial Promotion Scheme, 2010 is not includable in the assessable value of the goods cleared during the said period. Therefore, we hold that no duty is payable by the appellant. Consequently, no penalty is imposable on the appellant.

8. In view of this, we set aside the impugned order and allow the appeal with consequential relief, if any.

[Dictated and pronounced in the open Court]

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

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