CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD

REGIONAL BENCH, COURT NO. 3

SERVICE TAX APPEAL NO. 11121 OF 2019

(Arising out of OIA-CCESA-SRT-APPEALS-PS-900-2018-19 Dated- 25/03/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

LMP PRECISION ENGINEERING CO PVT LTD **Appellant**
Plot No 2p & 3, GIDC Estate, Chikhalo Road, Antalia
Taluka Gandhevi, Navsari, Gujarat

Vs.

COMMISSIONER OF CGST & CENTRAL EXCISE-
CGST & CENTRAL EXCISE SURAT **Respondent**
New building...opp. Gandhi Baug, Chowk Bazar,
Surat, Gujarat-395001

WITH

SERVICE TAX APPEAL NO. 11122 OF 2019

(Arising out of OIA-CCESA-SRT-APPEALS-PS-901-2018-19 Dated- 25/03/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

LMP PRECISION ENGINEERING CO PVT LTD **Appellant**
Plot No 2p & 3, GIDC Estate, Chikhalo Road, Antalia
Taluka Gandhevi, Navsari, Gujarat

Vs.

COMMISSIONER OF CGST & CENTRAL EXCISE-
CGST & CENTRAL EXCISE SURAT **Respondent**
New building...Opp. Gandhi Baug, Chowk Bazar,
Surat, Gujarat-395001

AND

SERVICE TAX APPEAL NO. 11131 OF 2019

(Arising out of OIA-CCESA-SRT-APPEALS-PS-902-2018-19 Dated- 25/03/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

LMP PRECISION ENGINEERING CO PVT LTD **Appellant**
Plot No 2p & 3, GIDC Estate, Chikhalo Road, Antalia
Taluka Gandhevi, Navsari, Gujarat

Vs.

COMMISSIONER OF CGST & CENTRAL EXCISE-
CGST & CENTRAL EXCISE SURAT **Respondent**
New building...opp. Gandhi Baug, Chowk Bazar,
Surat, Gujarat-395001

Appearance:
Shri Saurabh Dixit, Advocate for the Appellant
Shri N G Makwana, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. C. L. MAHAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 13167-13169/2024

Date of Hearing : 03.12.2024
Date of Decision : 10.12.2024

RAMESH NAIR

The brief facts of the case is that the short issue involved in the present appeal is whether the service tax is payable on the act of selling / supplying bought out goods (spares) by the appellant to the buyers, while selling drilling rigs and ancillary equipment produced by them, and whether it amounts to rendering service under the category of "Business Auxiliary Service."

2. Shri Saurabh Dixit learned counsel appearing on behalf of the appellant submits that the very same issue in the appellant's own case this tribunal has decided the matter in favour of the appellant reported as Lmp Precision Engineering Company Pvt Ltd Vs. CCE & ST – Daman 2017 (4) TMI 501-CESTAT Ahmedabad and another judgment reported as Lmp Precision Engineering Company Pvt Ltd Vs. CCE & ST Valsad 2024 (5) TMI 777-CESTAT Ahmedabad. He further submits that relying on the decision of this Tribunal in the appellant's case for subsequent proceeding on the same issue the Commissioner dropped the proceedings therefore the issue is no longer res integra.

3. Shri N G Makwana learned Superintendent AR appearing on behalf of the revenue fairly concedes that the issue in these appeals have been decided by this Tribunal in the appellant's own cases cited by the learned counsel.

4. Considering the submissions made by both the sides and perusal of records, we find that this Tribunal has passed the following order and relying on the same the Commissioner also dropped the proceeding.

- M/s. Lmp Precision Engineering Company Pvt Ltd 2017 (4) TMI 501 – CESTAT Ahm
- M/s. Lmp Precision Engineering Company Pvt Ltd OIO NO. SUR-EXCUS-000-COM-006-2-0-21 dated 31.08.2020
- M/s. Lmp Precision Engineering Company Pvt Ltd 2024 (5) TMI 777 – CESTAT Ahm

In view of the above, issue in hand is no longer res integra and stands settled in favour of the appellant therefore impugned orders are set aside.

5. Appeals are allowed.

(Order pronounced in the open Court on 10.12.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C. L. MAHAR)
MEMBER (TECHNICAL)

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