CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 2

SERVICE TAX APPEAL NO. 10337 OF 2018

[Arising out of Order-in-Original/Appeal No VAD-EXCUS-002-APP-333-2017-18 dated 22.08.2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

EVONIK SPECIALTY SILICA INDIA PRIVATE LIMITED **Appellant**

[formerly Known As M/s. J.m. Huber India Pvt Ltd.]
Plot No. 754, Gidc, Jhagadia Industrial Estate Ta-Jhagadia,
Bharuch, Gujarat - 393110

Vs.

CCE & CUSTOMS - BHARUCH **Respondent**

Vadodara-II,GST Bhavan,Subhanpura,
Vadodara, Gujarat - 390023

Appearance:
Present for the Appellant :Shri Vinay Kansara, Advocate
Present for the Respondent: Shri P. Ganesan, Superintendent (AR)

CORAM:
HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

FINAL ORDER NO. 10155/2025

Date of Hearing : **26/02/2025**
Date of Decision : **26/02/2025**

SOMESH ARORA

In this matter period involved is April, 2013 to February, 2014. A number of demands were made periodically by the Department. This one having been made in the normal period through a show cause notice dated 17.04.2015. The Department feels that the appellants had not provided exempt services, but services which were in the nature of business auxiliary services being that of Commission to foreign located supplier who had to market goods in India. The Department is of the view that services for the relevant period being in the nature of intermediary services were liable to be taxed in India and cannot be treated as export of services, per contra, the appellant views that the same is not taxable and is export of services and therefore, would not come under Rule 9(c) 2012 which came into with effect from 17.02.2012.

2. The learned Advocate takes support of the decisions of SNQS International Socks Pvt. Ltd. Vs. CGST & C. Ex. (2023) 10 Centax 395 (Tri.-Mad) [23-06-2023], which is stated to be upheld by the Hon'ble Supreme Court in SNQS International Socks Pvt. Ltd. Vs. CGST & C. Ex. (2024) 16

Centax 412 (Tri.-Mad) [23-11-2023]. Linde Engineering India Pvt. Ltd. Vs. UOI – 2022 (57) GSTL 358 (Guj.)

2.1. Learned Advocate for the appellant states that decisions deal with the scope of 'intermediary services' as existed prior amendment of 17.02.2012 and has analyzed the CBEC circular itself to conclude that services provided was not in the nature of intermediary services.

3. Learned AR opposes relief to the party by reiterating the order of the lower authorities and fairly stating that as per the provision of Rule 9 of POPS Rules, 2012, matter is covered.

4. This Court has considered the rival submissions, it finds that during the impugned period in this case CBIC instructions were taken cognizance of in SNQS International Socks Pvt. Ltd (cited supra) while delivering the decision. The same could not be taken cognizance of by the learned Commissioner (Appeal) as the decision was not available and also the CBIC instruction as has been referred in the judgment were not considered by him.

4. In view of the forgoing this court is of the view the matter deserves to be remanded to Commissioner (Appeal) in the light of the decision mention above. Matter is remanded with direction to consider above decision, party shall be free to furnish any other decisions if so desired by them.

5. The appeal is allowed by way of remand.

(Dictated and pronounced in the open court.)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Arpita