Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO.1

Service Tax Appeal No. 10102 of 2017-DB

(Arising out of OIA-VAD-EXCUS-003-APP-304-2016-17 dated 16/08/2016 passed by Commissioner (Appeals-I), Central Excise, Customs and Service Tax-VADODARA)

Swiss Glascoat Equipments Ltd **......Appellant**

H-106, Phase-iv, GIDC,
Vithal Udyognagar
ANAND, GUJARAT

VERSUS

COMMISSIONER OF CGST &
CENTRAL EXCISE –Vadodara I **......Respondent**

Central GST Building, Race Course Circle,
Vadodara-390007, Gujarat

WITH

Service Tax Appeal No. 12162 of 2019-DB

(Arising out of OIA-VAD-EXCUS-001-APP-112-2019-20 dated 30/05/2019 passed by Commissioner (Appeals), Central GST & Central Excise-VADODARA)

Swiss Glascoat Equipments **......Appellant**

H-106, Phase-iv, GIDC,
Vithal Udyognagar
ANAND, GUJARAT

VERSUS

Commissioner of C.E. & S.T.-Vadodara-I **......Respondent**

1ST FLOOR...CENTRAL EXCISE BUILDING,
RACE COURSE CIRCLE,
VADODARA, GUJARAT-390007

APPEARANCE:

Shri Mukesh Soni, Advocate for the Appellant
Shri M P Solanki, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10025-10026/2026

DATE OF HEARING/ DECISION: 07.01.2026

SOMESH ARORA

1. In the instant case, the Department alleges that manpower supply service was provided to the appellant who is a service recipient, whereas the appellant contends that they had engaged job workers who did job work in premises of the service recipient. Thus, the factual aspect relating to the manner in which the service was actually provided is crucial for determining the correct nature of the service.

2. The learned Advocate has placed reliance on Board's Circular No. 190/9/2015-ST dated 15.12.2015, wherein paragraphs 2 and 2.1 clearly distinguish manpower supply service from job work service and lay down the parameters for such classification. Relevant para 2 and 2.1 of the said Circular are reproduced below:

> *"2. The matter has been examined. The nature of **manpower supply service** is quite distinct from the service of job work. The essential characteristics of manpower supply service are that the supplier provides manpower which is at the disposal and temporarily under effective control of the service recipient during the period of contract. Service providers accountability is only to the extent and quality of manpower. Deployment of manpower normally rests with the service recipient. The value of service has a direct correlation to manpower deployed, i.e., manpower deployed multiplied by the rate. In other words, manpower supplier will charge for supply of manpower even if manpower remains idle.*
> *2.1 On the other hand, the essential characteristics of **job work service** are that service provider is assigned a job e.g. fabrication/stitching, labeling etc. of garments in case of apparel. Service provider is accountable for the job he undertakes. It is for the service provider to decide how he deploys and uses his manpower. Service recipient is concerned only as regard the job work. In other words service receiver is not concerned about the manpower. The value of service is function of quantum of job work undertaken, i.e. number of pieces fabricated etc. It is immaterial as to whether the job worker undertakes job work in his premises or in the premises of service receiver."*

3. From the above, it is evident that job work may be undertaken either at the premises of the service provider or at the premises of the service recipient. However, as clarified in paragraph 2, the decisive factor for determining whether the service is manpower supply or job work is whether the workers are placed at the disposal of, and under the temporary effective control and supervision of, the service recipient during the period of the contract.

4. Since the core criterion revolves around the issue of effective control and supervision over the workers deployed by the service provider, the same is required to be examined and decided first before arriving at final conclusion on the nature of the service. We find that this parameter has to be determined on the basis of the terms of the contract, if any, between the parties (which has not been produced so far), and by examining who bears the statutory

responsibilities under the Factories Act and other applicable labour laws in respect of the workers deployed at the premises of the service recipient.

5. In the absence of findings on these crucial factual aspects, the issue cannot be conclusively decided. Accordingly, we deem it appropriate to remand the matter to the adjudicating authority to first determine the issue of effective control and supervision over the workers and thereafter, apply the Board's Circular relied upon by the learned Advocate. The learned Advocate shall be at liberty to raise all other issues available under law during the de novo proceedings. The Adjudicating Authority will decide the matter in denovo proceedings within a period of 6 months from the receipt of this order.

6. The appeals are allowed by way of remand.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Bharvi