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

REGIONAL BENCH-COURT NO.2

Service Tax Appeal No. 10691 of 2020-DB
(Arising out of OIO-AHM-EXCUS-001-COM-007-20-21 dated 28.07.2020 passed by the Principal Commissioner, CGST & Central Excise – AHMEDABAD South)

AGILIS LOGISTICS ....**Appellant**
A-703, SOLITAIRE CORPORATE PARK,
SG HIGHWAY, NEAR DIVYA BHASKAR, MAKARBA
AHMEDABAD, GUJARAT

VERSUS

Principal Commissioner CGST & Central Excise,
Ahmedabad South ....**Respondent**
7th Floor, GST Bhavan, Nr. Polytechnic,
Ambawadi, Ahmedabad-380015, Gujarat

APPEARANCE:
Shri Jigar Shah, Advocate and Shri K J Kinariwala, Consultant for the Appellant
Shri Rajesh Nathan, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10178/2026

DATE OF HEARING/ DECISION: 27.02.2026

SATENDRA VIKRAM SINGH

1. Learned Advocate submits that the issue involved in the present case against M/s. Agilis Logistics pertains to the demand of differential service tax on Ocean Freight Service. The appellant is a freight forwarder who had availed services of various shipping lines and had entered into contracts for ocean freight.

1.1 During the audit of the records of the appellant, the officers observed that for the period from 01.06.2016 to 22.04.2017, the appellant had paid service tax on the abated value of ocean freight after availing the exemption under Notification No. 26/2012-ST (Sr. No. 10). On verification, the department calculated the differential service tax liability for the said period amounting to Rs. 2,46,29,962/-. Accordingly, a Show Cause Notice dated

01.04.2019 was issued to the appellant proposing recovery of the aforesaid amount under the proviso to Section 73(1) of the Finance Act, 1994, along with interest under Section 75 and penalty under Section 78(1) of the said Act. The said Show Cause Notice was adjudicated by the Principal Commissioner vide Order-in-Original dated 28.07.2020, wherein the adjudicating authority confirmed the differential service tax demand of Rs. 2,46,29,962/- along with applicable interest and imposed an equal penalty on the appellant under Section 78 of the Finance Act, 1994. Aggrieved by the said order, the appellant has filed the present appeal before this Tribunal, relying upon various decisions of the Tribunals and the Hon'ble High Courts concerning the issue of service tax liability on ocean freight. In the appeal, the appellant has prayed for setting aside the impugned order confirming the differential service tax demand along with interest and penalty under Section 78 of the Finance Act, 1994.

1.2 During the relevant period, i.e., up to 22.04.2017, an audit was conducted by the department and pursuant to the same, a show cause notice was issued. The said show cause notice was adjudicated by the Adjudicating Authority vide Order dated 28.07.2020, wherein differential service tax liability amounting to Rs. 2,46,29,962/- was confirmed along with equal penalty and applicable interest.

2. Learned Advocate further submits that the levy of service tax on ocean freight has been declared ultra vires by the Hon'ble Gujarat High Court in the case of SAL Steel Ltd. In view of this judgment, he contends that the entire demand of differential service tax is not sustainable. He also submits that during the relevant period, the appellant had been paying service tax on the freight amount after availing abatement of 70% in terms of Notification

No. 26/2012-ST dated 20.06.2012. He further clarifies that the appellant is not seeking refund of the service tax already paid.

3. Learned Authorised Representative for the Revenue fairly agrees with the above legal position.

4. We have heard the rival submissions and also considered the various decisions including the decision in the case of M/s. SAL Steel Ltd. (cited supra) and M/s. Kiri Dyes and Chemical Ltd (2023) 10 Centax 134 (Tri-Ahmd) which was also upheld by Hon'ble Supreme Court vide decision reported at (2023) 10 Centax 135 (SC). We have gone through the case laws quoted by the learned Advocate. We find that the Hon'ble High Court of Gujarat in the case of M/s. SAL Steel Limited Vs. Union of India cited (supra) in para-58 has held as under:-

> ***"58.*** *In view of the aforesaid discussion, the writ application succeeds and is hereby allowed. The Notification Nos. 15/2017-S.T. and 16/2017-S.T. making Rule 2(1)(d)(EEC) and Rule 6(7CA) of the Service Tax Rules and inserting Explanation-V to reverse charge Notification No. 30/2012-S.T. is struck down as ultra vires Sections 64, 66B, 67 and 94 of the Finance Act, 1994; and consequently the proceedings initiated against the writ applicants by way of show cause notice and enquiries for collecting service tax from them as importers on sea transportation service in CIF contracts are hereby quashed and set aside with all consequential reliefs and benefits."*

4.1 We also find that CESTAT Delhi, in the case of Gravita India Ltd. Vs. Commissioner of Central Excise & Central GST, Jaipur reported at (2024) 17 Centax 135 held that assessee being neither service provider nor service recipient could not be made liable to pay service tax on ocean freight paid by foreign seller to a foreign shipping line. Relevant para 41 of the said decision is reproduced below:-

> ***"41.*** *Hon'ble Supreme Court has held that the levy of IGST on the amount of Ocean Freight as unconstitutional in the case of UOI v. Mohit Mineral Pvt. Ltd. & Ors. vide its order dated 19-5-2022 passed in Civil Appeal No.*

1390/2022/[2022 (61) G.S.T.L. 257 (SC)]. The adjudicating authority had not considered said judgement on the ground that the same has been passed in GST regime. These findings are therefore liable to be set aside."

5. Accordingly, the impugned order is set aside and the appeal filed by the appellant is allowed.

(Dictated and pronounced in the open court)

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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