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

SERVICE TAX APPEAL NO. 10493 OF 2020

[Arising out of OIA-CCESA-SRT-APPEAL-PS-572-2019 dated 26/12/2019 passed by Commissioner (Appeals) CGST & Central Excise -Surat]

SUN PHARMACEUTICAL INDUSTRIES LIMITED **Appellant**
SURVEY NO. 214 PLOT NO.20, GIA, PHASE-II
SILVASSA, GUJARAT

Vs.

COMMISSIONER OF CGST & CENTRAL EXCISE - CGST & Central Excise Daman **Respondent**
5th Floor GST Bhawan, RCP Compound,
Vapi, Gujarat -396191

Appearance:
Present for the Appellant: Shri A B Nawal, Cost Accountant
Present for the Respondent: Shri Neilprakash G Makwana, Superintendent (AR)

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

FINAL ORDER NO. 10183/2026

Date of Hearing: 26/02/2026
Date of Decision: 26/02/2026

SATENDRA VIKRAM SINGH

M/s Sun Pharmaceutical Industries Ltd (Appellant) are engaged in manufacture of P. P. Medicine falling under Chapter heading 3004 the Central Excise Tariff Act, 1985. During audit of their records, the officers found that the appellant had shown expenses of Rs. 1,54,87,235/- against contract labour charges and loading and unloading charges in their trial balance for the period from April, 2017 to June, 2017 against which they had shown a value of Rs. 90,14,193/- in their ST-3 return only against Manpower Services and thus, there was a differential amount of Rs. 64,73,042/- on which they were required to pay service tax on reverse charge basis. The revenue therefore, issued them a show cause notice dated 29.05.2019 demanding service tax of Rs. 9,70,956/- from them under Section 73 under reverse charge mechanism along with interest under Section 75 and penalty under Section 77 and 78 of the Finance Act, 1994. The said notice was adjudicated by the Deputy Commissioner who confirmed the demand on the appellant along with interest. He also imposed equal penalty under Section 78 and penalty of Rs. 5,000/- under Section 77 of the said Act. Aggrieved with the said order, the appellant filed appeal before the Commissioner (Appeals) who rejected their appeal and upheld the order of the lower authority, hence the present appeal before this Tribunal.

2. In their appeal, the appellant took the following grounds:-

- The Appellate Authority has violated the principles of natural justice, as he has granted three dates of personal hearing by issuing three letters on the same date. Further, he passed the order ex-parte in their case.
- The show cause notice has been issued on assumptions and presumptions as only the expenditure has been considered for demanding the service tax without considering the fact that an amount of Rs. 41,65,478/- against Contract Labour Charges and an amount of Rs. 41,401/- against Loading and Unloading Charges were shown in their ledger balance against credit side. If both the credit amounts are considered, the net difference in the value remains only Rs. 22.66 Lakhs.
- They have not availed any Man Power Supply Service for repairing of boilers. Further, loading and unloading services were not of man power supply services as these works were on per MT basis. The man power for these works were under the supervision and control of the service provider and therefore, they are not liable to pay service tax on the said amount on RCM basis.
- They have also cited several decisions in their appeal namely:-
  - (i) EURO CERAMICS LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, RAJKOT 2013 (32) S.T.R. 642 (TRI. - AHMD.)
  - (ii) PAWNAR SATELLITE Versus COMMISSIONER OF CUS. & C. EX., JAIPUR 2011 (22) S.T.R. 14 (Tri. Del.)
  - (iii) HINDUSTAN STEEL V/S STATE OF ORISSA reported 1978 ELT (J.159)
  - (iv) PRATIBHA PROCESSORS VS. UNION OF INDIA, 1996 (88) E.L.T. 12 (S.C.)

3. During hearing, learned Counsel elaborated the points taken in their appeal and prayed that the matter may be remanded to the Appellate Authority to consider their submissions on merit as well as figures shown on credit side in their ledger account.

4. Learned AR also agreed to the above proposition and prayed that the matter may be remanded to the lower authority for fresh decision.

5. We having heard the rival submissions. We find that the Account ledger of the appellant shows certain amounts on credit side which have not been considered by the lower authority. The demand has been confirmed on the basis of only expenses shown therein. Further, their contention of supervision & control over persons engaged in boiler repair and loading and unloading has not been considered by the lower authorities. *Prima facie*, we agree with the above contention of the appellant and therefore, we deem it fit to remand the matter to the learned Commissioner (Appeals) to examine the submissions made by the appellant and decide the matter afresh. The appellant shall submit the desired documents within 4 weeks from the date of receipt of this order after which date, the learned Commissioner will pass order within a period of four months, after affording them opportunity of personal hearing. The appeal is disposed of in above terms by way of remand.

(*Dictated & Pronounced in the open court*)

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha