CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70759 of 2024

(Arising out of Order in Appeal No.MRT-EXCUS-000-APPL-MRT-11-24-25, dated -29/04/2024 passed by Commissioner (Appeals) CGST & Central Excise, Meerut)

M/s Triveni Engineering & Industries Ltd **.....Appellant**
(Sugar Unit-Milak Narayanpur
Rampur, Uttar Pradesh 244925)

VERSUS

Commissioner, Service Tax, Meerut-I **....Respondent**
(Opposite C.C.S. University, Mangal Pandey Nagar
Meerut, Uttar Pradesh 250002)

APPEARANCE:

Shri Naveen Kumar Tiwari, Authorized Representative for the Appellant
Shri A. K. Choudhary, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.-70661/2025

DATE OF HEARING : 29.08.2025
DATE OF DECISION : 29.08.2025

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-In-Appeal No.MRT-EXCUS-000-APPL-MRT-11-24-25, dated -29/04/2024 passed by Commissioner (Appeals) CGST & Central Excise, Meerut.

2. The facts of the case in brief are that the Appellant is engaged in the manufacture of 'Sugar and Molasses' classifiable under Chapter Sub Heading No.1701 & 1703 of the Schedule to the Central Excise Tariff Act, 1985 respectively. They are also registered with the Service Tax Department as the service

recipient/provider and paying service tax on receipt of taxable services under Transport of Goods by Road/Goods Transport Agency & other services under Reverse Charge Mechanism. Vide the impugned Order-In-Appeal, the learned Commissioner (Appeals) has upheld the demand of service tax amounting to Rs.21,620/-, Rs.8,718/- & Rs.1,12,830/-. Out of the above three demands the learned Authorized Representative for the Appellant-Company submits that they are no more contesting the two demands of Rs.21,620/- & Rs.8,718/- and have deposited the same. Now the dispute before me is only in respect of demand of Service Tax of Rs.1,12,830/- which the Department alleges that the Appellant-Company is required to pay under reverse charge mechanism.

3. The learned Authorized Representative for the Appellant submits that they are not required to pay the service tax as demanded under the reverse charge mechanism and the taxable value of Rs.25,95,113/- represents various expenses.

4. In respect of supply of black polythene, excise duty @ 12.5% and CST @ 2% has been charged in the invoice and the same is not subject to payment of service tax as this is not the services received as such but purchase of goods. Similarly in the case of Quick lime 2% CST has been charged in the invoice and this is also purchase of goods subject to CST and not input service and hence not liable to service tax under Reverse Charge Mechanism. Regarding the expenses incurred on sugar bag handling charges, the same are quantity based contract, the service tax provider has charged service tax and the same was paid by the Company and accordingly there was no occasion to pay service tax under reverse charge mechanism and expenses incurred in godown handling.

5. However, the learned Commissioner (Appeals) in the impugned order in Para 5.7 has discussed the entire issue and held that since the Appellant has failed to documentarily

establish the same on one to one correlation basis, the demand was upheld.

6. The detail chart as submitted by the Appellant is being reproduced below:-

FY	Outward Transport including loading of sugar from Godown and Freight expenses of Godowns				`Payment of ST made towards outward freight (as per detail given)	Difference of outward freight including loading expenses on which ST not paid (D-E)	Taxable value after abetment- 75%/ 70% Rs.
	Outward Freight	Sugar Bags Loading Exp	Sugar Godown Handling Exp	Total (A+B+C)			
	A	B	C	D	E	F	G
2014-15	2,29,72,494	3,61,682	1,26,009	2,34,60,185	-	2,34,60,185	58,65,046
2015-16	1,02,29,928	3,87,375	8,13,028	1,14,30,331	1,02,29,928	12,00,403	3,60,121
2016-17	58,23,540	6,42,500	7,52,210	72,18,250	58,23,540	13,94,710	4,18,413
2017-18 (Q1)				-		-	
	3,90,25,962	**13,91,557**	**16,91,247**	**4,21,08,766**	**1,60,53,468**	**2,60,55,298**	**66,43,580**

S. Tax	SBC	KKC	Total
H	I	K	L
7,24,920			7,24,920
50,417			50,417
58,578	2,092	1,743	62,413
			-
8,33,915	**2,092**	**1,743**	**8,37,750**

Description		**Taxable Value**	**Tax (including SBC & KKC)**
Freight & Forwarding Expenses-As per Trial Balance	1	4,21,08,766	
Less: S. Tax paid on freight (verified by Audit team)	2	1,60,53,468	
OIO-SCN confirmed- Total Disputed Expenses on which RCM to be paid	**3 (1-2)**	**2,60,55,298**	8,37,750
Less : OIO-Demand dropped by Commissioner Appeal	4	2,34,60,185	7,24,920
OIO- Demand Confirmed by Commissioner Appeal (disputed before Hon'ble CESTAT)	**5 (3-4)**	**25,95,113**	**1,12,830**

Expenses pertains to Goods & Services where RCM was not applicable, and due taxes were charged by Supplier on their invoices under Forward charges:		
Description of Goods & Services:	**Amount**	
Expenses incurred on Black polythene (Goods), where supplies charged Tax (12.5% Excise Duty & 2% CST)	12,97,114	
Expenses incurred on Lime (Goods), where supplies had charged Tax (2% CST)	24,893	13,22,007
Expenses incurred on Sugar Bags handling/loading (Qty based contract), where supplier had charged Tax (12 % Service Tax and SBC & KKC)	10,27,790	
Expenses incurred on Sugar Godown handling/Cleaning, (Goods), where supplies had charged Tax (12 % Service Tax and SBC & KKC)	2,45,316	12,73,106
Total expenses booked under freight & forwarding, where tax was charged by supplier under Forward Charge	**25,95,113**	**25,95,113**

7. The Appellant has also submitted that these invoices have been produced before the Lower Authorities but the same have not been considered.

8. I find that the Appellant is a ‘Limited Company’ and subject to various audits including that of CERA, Statutory Audit by a Chartered Accountant, Audit in respect of compliance of company law and Income Tax. For a small amount, had it been payable by them under Reverse Charge Mechanism, they would not have hesitated in compliance of the same and when the learned Commissioner (Appeals) have delved with this entire matter in the appeal before him and has discussed each and every aspect, I fail to understand why this was not considered. However, in all fairness, I find it appropriate to set aside the demand of Rs.1,12,830/- and I do so.

9. In view of the above discussion, the appeal filed by the Appellant is allowed with consequential relief as per law.

(Dictated and pronounced in open court)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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