

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT No.II

Service Tax Appeal No.70121 of 2021

(Arising out of Order-in-Appeal No.GZB/EXCUS/000/APPL-MRT/200/2020-21 dated 17/12/2020 passed by Commissioner (Appeals) Central Excise & CGST, Meerut)

Principal Commissioner of Central Excise &

CGST, Ghaziabad

.....Appellant

(CGO Complex-II, Kamala Nehru Nagar, Ghaziabad)

VERSUS

M/s Para Products Pvt. Ltd.,

....Respondent

(Plot No.20/3, Site-IV, Industrial Area, Sahibabad, Ghaziabad)

APPEARANCE:

Shri Santosh Kumar, Authorised Representative for the Appellant
None, for the Respondent

**CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER NO.70665/2025

DATE OF HEARING : 14 July, 2025
DATE OF DECISION : 14 July, 2025

SANJIV SRIVASTAVA:

This appeal is filed by the revenue against Order-in-Appeal No.GZB/EXCUS/000/APPL-MRT/200/2020-21 dated 17/12/2020 passed by Commissioner (Appeals) Central Excise & CGST, Meerut. By the impugned order, Commissioner (Appeals) has set aside the Order-in-Original No.02-DC/CGST/Div-VII/GZB/2020-21 dated 18.06.2020.

2.1 The demand has been made in respect of the 'ocean freight' on which as per the revenue the service tax was required to be paid by the respondent on reverse charge basis.

2.2 Commissioner (Appeal) has in the impugned order observed as follow:

"6. I find that the issue involved in the present appeal stands decided by the Hon'ble High Court of Gujarat, vide their Judgment dated 06.09.2019, in respect of R/Special Civil Application No.20785 of 2018, 3123 of 2018, 20791 of 2018 and 20796 filed by M/s SAL Steel Limited in which it was, inter-alia, held that:-

"58. In view of the aforesaid discussion, the writ application succeeds and is hereby allowed. The Notification No.15/2017-ST and 16/2017-ST 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-ST is struck down as ultra vires Section 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.

59. In view of the aforesaid the connected three applications also succeed and hereby allowed."

There is nothing on record that the said judgment dated 06.09.2019 of the Hon'ble High Court, Gujarat, has either been stayed or set aside. The impugned order confirming the demand of service tax on ocean freight is, therefore, not sustainable."

3.0 Revenue has filed this appeal stating as follows:

"3. That, the grounds of appeal for filing Civil Appeal/ SLP before Hon'ble Supreme Court against the Hon'ble High Court judgment dated 06.09.2019 In the matter of M/s SAL Steel Ltd., Kutch are as under:-

A. The Hon'ble High Court of Gujarat in respect of R/Special Civil Application No.20785 of 2018 filed by M/s SAL Steel Limited and Others Versus Union of India vide which the Hon'ble High Court of Gujarat has struck down Notification No.15/2017-ST and Notification No.16/2017-ST 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-ST as ultra virus of Section 64, 66B, 67 and 94 of the Finance Act, 1994.

B. The Hon'ble High Court of Gujarat has allowed the writ petition in this matter and Notification held No.15/2017-ST and Notification No.16/2017-ST 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- ST as ultra vires as per Section 64, 66B, 67 and 94 of Finance Act, 1994 on the following grounds:-

- a. There is no power conferred upon the Central Government under Section 94 of the Finance Act for charging and collecting tax on extraterritorial events.*
- b. An essential legislative function of taxing an activity in non- taxable territory could not have been delegated to the Central Government.*
- c. The rule making power of section 94 also does not permit the Central Government to make rules for recovering service tax from a third party who is neither the service provider nor the Service receiver.*
- d. There is no power conferred upon the Central Government, under Section 94 to fix value of any service. In absence of any power vested in the Central Government to fix value of any service by way of making a rule or a notification, Rule 6(7CA) of the Service Tax Rules, 1994 is ultra virus of the rule making power under Section 94 of Finance Act, 1994.*

C. The Hon'ble High Court of Gujarat in this matter has held that "service provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India (Ocean Freight)" is in nature of an extra territorial event and provisions of Finance Act, 1994, which is an Act of the Parliament for levy of Service Tax, do not permit nor empower the Central Government to collect Service Tax on such extra territorial events."

After stating as above revenue has in this appeal recorded the reason for disagreement with order of Hon'ble High Court for filing this appeal.

4.0 We have heard Shri Santosh Kumar for the appellant/revenue. None appears on behalf of respondent.

5.0 In absence of any stay from Supreme Court to the order of Hon'ble Gujarat High Court, impugned order cannot be faulted for the reason that revenue do have expressed its disagreement with the said order and has filed SLP against the same before Hon'ble Supreme Court. The canons of judicial discipline require that the said order is to be followed.

6.0 Further I note that in case of Sanathan Textile Pvt Ltd [**2024-TIOL-405-HC-MUM-GST**] Hon'ble Bombay High Court agreeing with the view taken by Hon'ble Gujarat High Court and Madras High Court has observed as follows:

"7. We had heard the proceedings on the earlier occasion, when the learned Counsel for the Petitioner had contended that the notifications as impugned in the Petition were subject matter of adjudication before the Division Bench of the Gujarat High Court in the proceedings of SAL Steel Ltd. Vs. Union of India 2020 (37) G.S.T.I.. 3 (Guj.) = 2020-TIOL-163-HC-AHM-ST as also such decision of the division bench was considered by the Tribunal in the case of Commissioner of Service Tax, Ahmedabad vs. Kiri Dyes and Chemicals Ltd (2023) 10 Centax 134 (Tri.-Ahmd). The Tribunal following the decision of the division bench had accepted the Assessee's contention in regard to the service tax on ocean freight under reverse charge as payable by the importer to be illegal. Such decision of the Tribunal was confirmed by the Supreme Court in dismissing the Revenue's Appeal. This Court accordingly considering such contentions had passed the following Order on 29th January 2024:-

"1. The primary contention of the petitioner is that the challenge to the impugned Notifications (Exhibit A) would

stand covered by the decision of the Division Bench of Gujarat High Court in SAL Steel Ltd. vs. Union of India whereby the notification has been quashed and set aside and the petitioner was granted all consequential benefits.

2. We are also informed that the decision in SAL Steel Ltd. (supra) was followed by the Tribunal in the case of Commissioner of Service Tax, Ahmedabad vs. Kiri Dyes and Chemical Ltd. The decision of the Tribunal in Kiri Dyes and Chemical Ltd. was carried in appeal by the department before the Supreme Court. The Supreme Court confirmed the decision of the Tribunal by dismissing the appeal filed by the department in the case of Commissioner of Service Tax vs. Kiri Dyes and Chemicals Ltd.

3. Insofar as the Notification (Exhibit F) is concerned, learned counsel for the petitioner would submit that the same is the subject matter of prayer clause (c) as also partly prayer clause (a) would stand covered by the decision of the Supreme Court in Union of India vs. Mohit Minerals Pvt. Ltd.

4. However, as we have noted that there is deficiency in the memo of the petition on the count that the relevant facts are not pleaded, we grant an opportunity to the petitioner to place on record the relevant facts by permitting the petitioner to amend the petition. Accordingly, leave to amend to place on record the relevant facts on record in respect of cause of action which has arisen to the petitioner to assail the impugned notifications as also to add an additional prayer, if any.

5. Amendment be carried out within one week from today and copy of the amended petition be served on the advocate for the respondents. Reverification is dispensed with.

6. Also on behalf of the respondents, instructions be taken on the contentions as urged on behalf of the petitioner as noted by us hereinabove.

7. Stand over to 12 February, 2024 (H.O.B.).

8. Parties are put to notice that on the adjourned date of hearing, the Court shall hear the parties on the present proceedings finally and an endeavour would be made to dispose of the petition."

8. It is on the above backdrop, the proceedings are before us today. We have heard learned Counsel for the parties. We have perused the record.

9. At the outset we may observe that the division bench of the Gujarat High Court in SAL Steel Ltd. (supra) had considered the challenge to the impugned notifications in the context of the service tax on transportation of goods by a vessel from a place outside India. The impugned provisions were held ultra vires of Section 64, 65(B), 44, 66(B), 67 and 68 and 94 of the Finance Act, 1994. It was held that importers in CIF contracts were neither service providers nor service receivers in respect of transport of goods by vessel from place outside India, and that service tax cannot be recovered from third party who is neither the service provider nor the service receiver.

10. In such context, the observations as made by the Court are required to be noted which reads thus:-

"31. A perusal of Section 94 shows that there is no power conferred upon the Central Government to make any Rules or Notifications for extra territorial events; or in other words, for services rendered and consumed beyond the "taxable territory" i.e. beyond India. Obviously, the Act itself is not applicable to the territories other than India and therefore the Executives cannot have any power to make Rules for territories beyond India.

33. The impugned provisions are also ultra vires the Rule making power of Section 94 of the Finance Act.

34. As observed above, the person receiving service of sea transportation in CIF contracts is the seller-supplier of the goods located in a foreign territory. The Indian importers

like the writ applicants are not the persons receiving sea transportation service, because they receive the "goods" contracted by them, and they have no privity of contract with the shipping line nor does the Indian importer make any payment of ocean freight to the service provider. But the impugned provisions make such "importer" liable to pay service tax; and therefore such provisions allowing the Central Government to recover service tax from a third party are ultra vires the statutory provisions of the Finance Act, as discussed below.

35. The charging section 66B provides for levy of service tax on the value of "services", other than those specified in the Negative List. The term "service" is defined under Section 65B(44) to mean any activity carried out by a person for another for consideration. Thus, service is an activity carried out by a person (i.e. the service provider) for another person (i.e. the receiver of service). Only two parties are recognized by the Parliament in regard to "service" viz. the service provider and the recipient of service.

37. By virtue of Sub Section (2) of Section 68, the Central Government has power to shift the liability to pay service tax; the method which is popularly known as reverse charge mechanism, under which service tax is collected from the recipient of service. Notification No. 30/2012-ST issued under Section 65(2) of the Finance Act is for reverse charge system; and the table under para (II) of the Notification shows that the Central Government has shifted the burden to pay service tax to the person receiving the service by virtue of Col. No. 4 of the table. Thus, the reverse charge system under Section 68(2) of the Finance Act permits the Central Government to collect or recover service tax from the receiver of service, though the primary charge is on the person providing taxable service by virtue of Sub Section (1) of Section 68.

38. But the importers in CIF contracts i.e. the writ applicants herein are neither service providers nor service

receivers in respect of transportation of goods by a vessel from a place outside India upto the Customs station of clearance in India. Section 68(1) and also the reverse charge Notification under Section 68(2) permit the Central Government to collect and recover service tax only from the person providing the service or from the person receiving the service, and not from a third party. The rulemaking power of section 94 also does not permit the Central Government to make rules for recovering service tax from a third party who is neither the service provider nor the service receiver.

39. Therefore, the impugned provisions i.e. Rule 2 (1)(d)(EEC) and Explanation-V to Notification No. 30/2012-ST are ultra vires Section 65B(44) defining "service" and Section 68, and also Section 94 of the Finance Act.

43. When the Respondents have admitted that the importers in India are not persons receiving service of sea transportation, and that it is the Respondent's case that the Indian importers were "indirectly" receiving such service and hence were persons liable to pay service tax on such service; it is clearly a case where the Respondents propose to charge service tax from the third parties i.e. the Indian importers by implication, and not by clear words of the charging section. The impugned provisions creating a charge of service tax on third parties though the Act of the Parliament provides for levy and collection of tax either from the person providing service or from the person receiving service are beyond the charging provision, and also beyond the Rulemaking power of Section 94 of the Finance Act.

45. A charging provision and the machinery provision are two sides of the same coin. A substantial provisions of chargeability and the machinery provisions of valuation have a navel relationship of cause and effect with the result that one cannot survive without the other, and they are inseparable pillars of an integral tax code. The observations of the Mumbai High Court at para 41 in Satellite Television

Asian Region Ltd. reported in MANU/IU/0002/2006, and by the Supreme Court at para 10 in CIT Bangalore V/s. B. C. Srinivas Setty, AIR 1981 SC 1972 are relevant in this regard, because it is held in these cases that if the computation provision cannot be applied, then the substantial provisions of chargeability become redundant.

46. In the present cases, since the value of ocean freight is not available, Sub Rule (7CA) is inserted in Rule 6 of the Service Tax Rules thereby giving an option to the importer to pay service tax on 1.4% of CIF value of imported goods. But this insertion of Sub Rule (7CA) in Rule 6 is also ultra vires the machinery provision of Section 67, and also rule making power of Section 94.

47. There is no power conferred upon the Central Government under Section 94 to fix value of any service, the way such power is conferred upon the Board under Section 14(2) of the Customs Act, 1962. In absence of any power vested in the Central Government to fix value of any service by way of making a rule or a notification, Rule 6 (7CA) of the Service Tax Rules is ultra vires the Rulemaking power. Secondly, it is an option under Rule 6 (7CA) to pay service tax on the amount calculated @1.5% of CIF value of the imported goods; but if the importer does not exercise this option, then there is void because actual value of this service i.e. ocean freight is not known even to the Revenue officers. Therefore, the scheme of taxation would fail and fall in absence of a machinery provision for valuation of the service when tax is proposed to be recovered from a third party not having any information about the value of such service.

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."

11. Following the decision of the division bench in SAL Steel Ltd. (supra), the Central Excise and Service Tax Appellate Tribunal in the case of Commissioner of Service Tax, Ahmedabad (supra) dismissed the Revenue's Appeal passed the following Order:-

"The issue involved in the present case is whether the appellant is liable to pay service tax on the service on Ocean Freight or otherwise.

2. Shri Sanjay Kumar, learned Superintendent (AR) appearing on behalf of Revenue/Appellant submits that though this issue is decided by Hon'ble Gujarat High Court in the case of SAL Steel Limited but the Revenue has preferred SLP before the Hon'ble Supreme Court therefore, this matter may be kept pending till outcome of Hon'ble Supreme Court judgment.

3. Shri R. R. Dave, learned Consultant appearing on behalf of the respondent/ Assessee submits that learned Commissioner (Appeals) following the judicial discipline by relying upon the Hon'ble Gujarat High Court in the case of SAL Steel Limited allowed the appeal of the respondent therefore, there is no infirmity in Order-in-Appeal and the Revenue's appellant is not maintainable. As regards the Revenue's contention that the Revenue's appeal is pending before the Hon'ble Supreme Court in the case of SAL Steel Limited, he submits that there is no stay against the Hon'ble Gujarat High Court order. He placed reliance on the Hon'ble Supreme Court decision in the case of Union of India v. Mohit Minerals Pvt. Limited 2022 (61) GSTL 257 (SC) = 2022-TIOL-49-SC-GST-LB.

4. I have carefully considered the submissions made by both the sides and perused the record. I find that the issue whether Ocean Freight/Sea Transportation service is liable to service tax or otherwise has been decided by jurisdictional High Court of Gujarat in the case of SAL Steel Limited. As regards the Revenue's appeal pending before the Hon'ble Supreme Court against the aforesaid decision, I find that there is no stay against the said High Court judgment. In view of this position, I find no infirmity in the impugned order which was passed relying on the jurisdictional High Court judgment in the case of SAL Steel Limited. Accordingly, following the Hon'ble Gujarat High Court decision in the case of SAL Steel Limited, the impugned order is upheld and the Revenue's appeal is dismissed. Cross objection is also disposed of."

12. The aforesaid decision of the Tribunal was carried in Appeal by the Revenue before the Supreme Court. The Supreme Court in Commissioner of Service Tax, Ahmedabad (supra), dismissed the Civil Appeal filed by the Revenue by an Order dated 01.09.2023 passed on Civil Appeal Diary No.2146/2023.

13. We may observe that the similar issue as fell for consideration before the Madras High Court in the case of Chennai & Ennore Ports Steamer Agents Association Vs. Union of India (2023) 10 Centax 135 (S.C.) = 2023-TIOL-559-HC-MAD-ST, in such decision the Court had considered the decision of the Division Bench of the Gujarat High Court in SAL Steel Ltd. (supra) in considering the issue namely, whether the members of the Petitioner were liable to pay service tax on the service of ocean freight. Rejecting the case of the Revenue and accepting the case of the Assessee, the Madras High Court, making the following observations, allowed the Writ Petitions by setting aside the show cause notices issued to the respective Petitioners. The Relevant observations of the Court which require to be noted, read thus:-

"121. In CIF contracts, the service of transportation of goods by vessel is received by the foreign exporters/overseas supplier from the foreign/overseas vessel owner/operator/Shipping Liners in the CIF contract. The value of all incidental services consumed in the course of import of goods is built into the import value of the import goods. Customs duty is already paid by the importers on these values. To that extent, there is no justification to burden the importers who will be forced to bear the incidence of the levy on again.

122. The transaction value for the purpose of custom duty and additional duty of custom equivalent to the excise duty (ADC), includes the value of ocean freight. Therefore, importers cannot be mulcted with the double tax on the ocean freight either directly or indirectly particularly in a CIF contracts.

123. The value of incidence of such intermediate services availed by the Shipping Liners will be passed on by the Shipping Liners to the Foreign Shippers and eventually to the importers. This value gets taxed in the case of CIF Contract. In the case of FOB contracts, the importers have to in any event include the value under Section 14 of the Customs Act, 1962. Thus, to tax, the overseas freight twice is also uncalled.

124. Such cost of such transportation is factored into the price of the shipment and such cost of such shipment gets built into the transaction value of the import goods at the time and place of importation. Computation of service tax in CIF contract is impossible. That apart, in view of the Division Bench of the Gujarat High in Sal Steel Ltd Vs. Union of India, (2020) 37 G.S.T.L. 3/[2020] 117 Taxmann.com 619 = 2020-TIOL-163-HC-AHM-ST, no tax can be demanded on an ocean freight or importers.

125. Neither the importer in India who imports the goods at the place of destination in India will have an idea as to the cost of such services which are in built and borne by the

foreign shipping liners nor the steamer agents who book cargo for and behalf of a shipping liner.

126. Further, in the case of contracts on a CIF (Cost, Freight and Insurance), the foreign supplier-exporter engages the services of the Overseas Shipping Liner and is responsible for arranging transportation and insurance of the goods. The consideration for shipping the goods is payable by the foreign supplier in the case of CIF contracts to the foreign/Overseas Shipping Liner.

130. We therefore, hold that service tax cannot be demanded from these petitioners as neither the "steamer agents" nor the "importers" in India are the recipient of service. They are not liable to pay tax.

149. In Kusum Ingots and Alloys Ltd. Vs. Union of India, 2004 (168) E.L.T. 3 (S.C.) = 2004-TIOL-117-SC-CX-LB, it was held that an order passed on writ petition questioning the constitutionality of a Parliamentary Act whether interim or final keeping in view the provisions contained in Clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act. If that be so, the notices which have been challenged by the category II writ petitioner in Table 5 are also liable to be quashed. However, we would not go that far to hold all the notifications challenged as ultra-vires.

160. As far as refunds are concerned in Table No. 6, the petitioners will have to file appropriate refund applications for refund of the amounts which are said to have been paid by them in accordance with the law laid down by the Hon'ble Supreme Court in Mafatlal Industries Private Limited vs. Union of India, 1997 (89) E.L.T.(S.C.) = 2002-TIOL-54-SC-CX-CB.

164. In the result, it is held as follow:-

i. The challenges to Section 66(2) of the Finance Act, 1994, impugned Circular No. 206/4/2017-Service Tax, dated

13.04.2017 and impugned Notifications issued by the Central Government under the provisions of the Finance Act, 1994 fail. Therefore, Writ Petitions in Table, 1,2,3 4 are liable to be dismissed and are accordingly dismissed.

ii. These petitioners are however not the recipient of service for the purpose of the impugned Notification No. 3/2017-ST dated 12.01.2017 amending Notification No. 30/2012-ST dated 20.06.2012 issued under Section 68(2) of the Finance Act,1994.

iii. Therefore, there is no scope for demanding service tax from these petitioners in view of the defects pointed out in the impugned Notification No. 3/2017-ST dated 12.01.2017 amending Notification No. 30/2012-ST dated 20.06.2012 issued under Section 68(2) of the Finance Act, 1994. Therefore, there is no justification in the impugned Show Cause Notices in Table-5. These show cause notices are therefore quashed.

iv. The respondents shall also not issue any show cause notices to the importers and steamer agents for the period covered by this order ie. for the period between 22-1-2017 and 30-6-2017 for similar activity.

v. As far as refunds in Table 6 are concerned, the petitioners are directed to file refund claims within 30 days from the date of receipt of a copy of this order, if no claim has already been made.

vi. All the refund claims shall be disposed of within a period of 60 days or 90 days, as the case may be, in accordance with the law laid down by the Hon'ble Supreme Court in Mafatlal Industries Private Limited vs. Union of India, 1997 (89) E.L.T.(S.C.) = 2002-TIOL-54-SC-CX-CB."

14. We find ourselves in complete agreement with the view taken by the Division Bench of the Gujarat in SAL Steel Ltd.(supra) as also by the Division Bench of the Madras High Court in Chennai & Ennore Ports Steamer Agents Association (supra). Thus, the Petitioners' challenge to the

impugned notifications as prayed for in prayer clause (a) needs to succeed on the ground that the said notifications were set aside in the case of SAL Steel Ltd.(supra).

15. In so far as the impugned notification at Exhibit-F is concerned being subject matter of prayer (c) as also partly prayer clause (a), it appears that such challenge would stand covered by the decision in Union of India Vs. Mohit Minerals Pvt. Ltd 2022 (61) G.S.T.L. 257 (S.C.) = 2022-TIOL-49-SC-GST-LB in which the Supreme Court has held that the IGST and CGST define reverse charge and prescribe the entity that is to be taxed for those purposes. It was held that the specification of the recipient by Notification No. 10/2017 is only clarificatory and that the Government by notification did not specify a taxable person different from the recipient prescribed in Section 5 (3) of the IGST Act for the purposes of reverse charge. It was held that levy imposed, on the service aspect of the transaction was in violation of principles of 'composite supply' enshrined under Section 2(30) read with section 8 of the GST Act. Since the Indian importer is liable to pay IGST on the 'composite supply' comprising of supply of goods and supply of services of transportation, insurance etc. in CIF contract, a separate levy on the Indian importer for the 'supply of services' by the shipping line would be violative of Section 8 of the GST Act. There is no dispute that such relief as prayed for stands covered by the decision of the Supreme Court in Union of India Vs. Mohit Minerals Pvt. Ltd(supra)."

7. We also note that similar appeal filed by revenue in case of Kiri Dyes and Chemical Ltd. [(2023) 10 Centax 134 (Tri. - Ahmd.)], was dismissed by the Ahmedabad bench observing as under:-

"4. I have carefully considered the submissions made by both the sides and perused the record. I find that the issue whether ocean freight/sea transportation service is liable to service tax or otherwise has been decided by jurisdictional High Court of Gujarat in the case of SAL Steel

Limited. As regards the revenue's appeal pending before the Hon'ble Supreme Court against the aforesaid decision, I find that there is no stay against the said High Court judgment. In view of this position, I find no infirmity in the impugned order which was passed relying on the jurisdictional High Court judgment in the case of SAL Steel Limited. Accordingly, following the Hon'ble Gujarat High Court decision in the case of SAL Steel Limited, the impugned order is upheld and the revenue's appeal is dismissed. Cross objection is also disposed of."

This order of Ahmedabad Bench has been upheld Hon'ble Supreme Court as reported as [(2023) 10 Centax 135 (SC)], after condoning the delay.

8.0 In view of the discussions as above we do not find any merits in the appeal filed by the revenue.

9.0 Appeal is dismissed.

(Operative part of the order pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)