CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 676 of 2012
(Arising out of Order-in-Original No. 01/2012 dated 03.01.2012 passed by the Commissioner of Central Excise, Bangalore-I Commissionerate, Bangalore.)

GE India Industrial Limited
No. 42/1 & 45/14,
Electronic City Phase–II,
Bangalore – 560 100.

Appellant(s)

VERSUS

The Commissioner of Central Excise, Bangalore I Commissionerate:
Central Revenue Building, Queens Road,
Bangalore – 560 001.

Respondent(s)

APPEARANCE:

Ms. Suvrata Maheswari, Advocate for the Appellant

Mr. H. Jayathirtha, Superintendent(AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20218 /2024

DATE OF HEARING: 19.03.2024
DATE OF DECISION: 19.03.2024

PER : DR. D.M. MISRA

This is an appeal filed against the Order-in-original No.1/2012 dt. 03/01/2012 passed by the Commissioner of Central Excise, Bangalore.

2. Briefly stated the facts of the case are that the appellants are engaged in the manufacture of excisable goods viz. circuit breakers, switch gears, fuse links etc. falling under Chapter heading 8536 of the Central Excise Tariff Act, 1985. The said goods are supplied to M/s. Mazagon Dock Ltd., Mumbai and M/s.

Garden Reach Shipbuilders & Engineers Ltd., Kolkata for use in construction of warships of Indian Navy. Since the appellant had not complied with the condition of Notification No.64/95-CE dt. 16/03/1995, the goods cleared claiming exemption alleged to be leviable to duty. Consequently, show-cause notice was issued on 24/08/2011 demanding duty of Rs.83,89,895/- for the clearances from August 2010 to January 2011. On adjudication, the demand was confirmed with interest and penalty under Rule 25 of the Central Excise Rules, 2002. Hence, the present appeal.

3. At the outset, the learned advocate for the appellant submits that the issue is squarely covered in their favour in their own case, for earlier period, reported as ***GE India Industrial Ltd. Vs. CCE,C&ST, Bangalore-I*** [2016(335) ELT 103 (Tri. Bang.)]. She has further submitted that after taking note of the judgment of the Hon'ble Supreme Court, the exemption was allowed by this tribunal.

4. The learned AR for the Revenue reiterated the findings of the learned Commissioner.

5. Heard both sides and perused the records.

6. We find that the issue has been squarely covered by this judgment of this Tribunal in their own case for an earlier period. After analysing the conditions of the notification and taking note of the judgment of the Hon'ble Supreme Court in the case of ***Leader Engineering Works Vs. Commissioner*** [2007(212) ELT 168 (SC)], this Tribunal held as follows:

> ***4.*** *The facts on record and submissions of both sides have been carefully considered. It is very clear from the facts that the items namely circuit breakers and other electrical goods were distinctly supplied for use in construction of warship(s) of Indian Navy only. In this regard, the appellant has got the certificate from the Competent Authority namely Rear Admiral of*

> *Indian Navy which is the second condition of the Notification against Sl. No. 21. In this Notification, it is nowhere mentioned that goods were to be directly supplied to Indian Navy. When the goods are being supplied to MDL which was using them for construction of warships of Indian Navy, it is very clear that conditions of the Notification against Sl. No. 21 have been complied with and the subject goods are entitled to the benefit of subject notification namely 64/95-C.E., dated 16-3-1995. It is to be noted that Hon'ble Apex Court in the case of Leader Engineering Works (supra) on which reliance was placed by AR, was considering the goods which were supplied as stores for consumption on board of ship and they were supplied to ship builders and the entry considered was against Sl. No. 3 of the subject notification. Therefore, the facts in the case of Leader Engineering Works (supra) are definitely different than the facts on record of these appeals.*

7. No contrary judgment is placed before us. Hence, we do not see any reason to deviate from the said judgment. Consequently, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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