CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Excise Appeal No. 20640 of 2016

(Arising out of Order-in-Original No. MLR-EXCUS-000-COM-MS-0019-15-16 dated 07.01.2016 passed by Commissioner of Central Excise & Service Tax, Mangalore).

Maroor S Sudhir Pai
Partner M/s Maroor S Aluminium & Interiors
Plot No. 123-a, 123-b, Industrial Area,
Baikampady Mangalore,
Karnataka - 575011. **.......... Appellant**

VERSUS

Commissioner of Central Excise, Mangalore
7th Floor, Trade centre,
Bunts Hostel Rd. Mangalore,
Karnataka - 575003. **....... Respondent**

AND

Excise Appeal No. 20642 of 2016

(Arising out of Order-in-Original No. MLR-EXCUS-000-COM-MS-0019-15-16 dated 07.01.2016 passed by Commissioner of Central Excise & Service Tax, Mangalore).

Maroor S Aluminium and Interiors
Plot No. 123-a, 123-b, Industrial Area,
Baikampady Mangalore,
Karnataka - 575011. **.......... Appellant**

VERSUS

Commissioner of Central Excise, Mangalore
7th Floor, Trade centre,
Bunts Hostel Rd. Mangalore,
Karnataka - 575003. **....... Respondent**

Appearance:
Shri N. Anand, Advocate for the Appellant
Shri P. Saravana Perumal, Authorised Representative for the Respondent

Coram:
Hon'ble P.A. Augustian, Member (Judicial)
Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

<u>Final Order Nos. 20247-20248 /2025</u>

Date of Hearing: 27.01.2025

Date of Decision: 27.01.2025

Per: P.A. Augustian

The issue in the present appeals is regarding excise duty on works related to 'Installation of structural Glazing', 'Aluminium Doors', 'Aluminium Partitions' and 'office interiors'.

2. The brief facts are, M/s. Maroor S Aluminium and Interiors, the Appellant is engaged in the business of executing works related to interiors for buildings and premises. The Appellant is duly registered as “works contract” dealer under KVAT Act, 2005 and also registered as taxable service provider under the provisions of the Finance Act, 1994 under the categories of 'works contract', 'interior decorator' and 'Goods Transport Agency' services. Alleging that the activity carried out by the appellant including installation of false ceiling are falling under the category of manufacture, proceedings were initiated for the period from April 2009 to December 2013 and Adjudication Authority as per the impugned order dated 07.11.2013 confirmed the demand of duty amounting t0 Rs. 74,22,223/- and other Adjudication levies. The Appellant challenged the said order before this Tribunal and this Tribunal set aside the Order-in-Original and remanded the mater for De-novo Adjudication vide Final Order No. 20990-20991/2014 dated 16.06.2014 and directed the appellant to deposit Rs. 2,00,000/- before the Adjudicating Authority. In the meantime for the subsequent period, respondent had issued 2(two) separate show cause notices dated 06.12.2013 and 10.04.2014. Pursuant to remand by this Tribunal in respect of first show cause notice, the Adjudicating Authority clubbed all the 3(three) Show cause notices and proceeded to adjudicate together.

During the said common adjudication proceedings, the appellant produced Chartered Accountant (CA) certificates evidencing the total value of movable items manufactured in the execution of interior works etc. Thereafter Adjudicating Authority passed Order-in-Original dated 24.11.2015. Regarding demand against 'false ceiling' work undertaken by the appellant, adjudication authority admits that there is no manufacturing activity involved and the demand of Central Excise duty is not sustainable. However, the other activities were considered as manufacturing and the Adjudicating Authority confirmed the demand along with interest and imposed penalties. Further, he has imposed a penalty of Rs. 5,00,000 under Rule 26 of Central excise Rules, 2002 on Shri. Maroor S Sudhir Pai, partner of the appellant. Aggrieved by said order present appeals are filed before the Tribunal.

3. When the appeals came up for hearing, Learned Counsel submits that none of the activities carried out by the appellant are falling under manufacture as defined under section 2(f) of the Act, which should satisfy the conditions of movability and marketability and when either of the two conditions or both the conditions are not satisfied then it will not be excisable goods and no Central Excise duty can be levied. Learned Counsel also draws our attention to following chart showing each activities carried out by the appellant :-

S.No.	**Nature of work/item**	**Manner of execution in brief**
1.	Installation of Aluminium Composite Panel (ACP) sheets cladding work	Appellant procures required raw materials and receives it in their factory. ➤ **At factory**, ACP Sheets are subjected to cutting, grooving (increasing thickness) and bending of cut sheets are done. These fabricated ACP Sheets are sent to site.

		➤**At site**, Aluminium Frame Sections of 12ft length are received. These are cut into required sizes and are fixed to the cladding area/wall/building. This completes framing work. ➤**At site,** after completion of framing work, the cut, grooved and bent ACP sheets received from factory are fitted to frames by using bought out items like screws, silicon, etc as per site-plan.
2.	Installation of Structural Glazing work	Appellant procures required raw materials ie. Structural Aluminium Sections in their factory. **At factory,** Structural Aluminium Sections of 12/14/16 ft length cut into required size as per site-plan, and powder coated and fitted with clamps. These cut and powder coated Aluminium Sections are sent to site. **At site,** cut and powder coated Aluminium Sections received from factory are fitted/mounted to frames by using bought out items like Glass Sheets, screws, silicon, etc are installed as per site-plan.
3.	Installation of Aluminium windows, ventilators, door frames, louvers, etc	Appellant procures required raw materials ie, Aluminium Track Sections in their factory. **At factory**, Aluminium Track Sections of 12/14/16 ft length and Glass Sheets are cut into required size as per site-plan, and powder coated and fitted with clamps. These cut and powder coated Aluminium Track Sections and Cut-Glass Sheets are sent to site. **At site**, cut and powder coated Aluminium Track Sections and Cut-Glass with other bought-out items like silicon, MS Clamps, wood screws, bolt/nut, etc are received at site. These items are assembled as per site-plan.

4.	Installation of Aluminium Partitions, counters, fish bottom doors, patch fitting doors	Appellant procures required raw materials i.e., Aluminium Sections like bottom section, side section, etc in their factory. **At factory,** Aluminium Sections of 12/14/16 ft length are cut into required size as per site-plan, and are powder coated. These cut and powder coated Aluminium Sections are sent to site. **At site**, cut and powder coated Aluminium Sections and other purchased materials like Glass sheets, silicon, MS Clamps, wood screws, bolt/nut, etc are received at site. These items are assembled as per site-plan.
5.	Office interiors, wooden partitions, paneling, storage units, wardrobes, etc	Majority of these activities involves actual execution of work as per approved interior design similar to "False Ceiling work". In some cases, there is manufacture of movable items like storage units, tables, etc.

4. As regards installation of Aluminium Composite Panel (ACP) Sheet cladding work, appellant procured raw materials and received it in their factory, it is subjected to cutting, grooving and bending of cut sheets. These fabricated ACP sheets are sent to site. Aluminium frame sections received are of 12 feet length, these are cut into required sizes and are fixed to the cladding area/wall/building, this completes the framing work. Learned Counsel further submits that there is no assembling of ACP panel or door frame windows, curtain walls etc., undertaken at the factory. In the factory appellant only carried out a few process like cutting of aluminium sections to required size as per site plan and bending, where ever required and powder coating of cut aluminium

sections. These facts are undisputed and evidence from the deposition statement obtained by the Revenue. Only at site the appellant installed/erected the cut and processed sections/sheets received from factory along with the various bought out items like Glass sheets, Silicon, MS clamps, wood screws, bolt/nut, etc.

5. Learned Counsel further submits that for levying excise duty, there must be a manufacture of excisable goods. Learned Counsel also draws our attention to the Circular No. 58/1/2002-CE dated 15.01.2002;

> *"(i) For goods manufactured at site to be dutiable they should have a new identity, character and use, distinct from the inputs/ components that have gone into its production. Further, such resultant goods should be specified in the Central Excise Tariff as excisable goods besides being marketable ie. they can be taken to the market and sold (even if they are not actually sold). The goods should not be immovable.*
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> *(ii) Where processing of inputs results in a new product with a distinct commercial name, identity and use (prior to such product being assimilated in a structure which would render them as a part of immovable property), excise duty would be chargeable on such goods immediately upon their change of identity and prior to their assimilation in the structure or other immovable property.*
>
> *(iii) Where change of identity takes place in the course of construction or erection of a structure which is an immovable property, then there would be no manufacture of "goods" involved and no levy of excise duty."*

6. Learned Counsel also draws our attention to the Circular No. 25/89 dated 19.04.1989;

> "*2. The matter has been examined. It is observed that in view of entry No. 84, List I of the Seventh Schedule to the Constitution of India, duty of excise could be levied only on 'goods' as defined by the Hon'ble Supreme Court in D.C.M. case and other subsequent*

cases, and not on immovable property. Therefore, if as a result of the assembly at site, a chimney or a tank or a scrubber or a tower or a hopper comes into existence in a movable condition prior to its installation in an immovable manner at the site, then only it can be charged to duty as a chimney or a tank or a scrubber or a tower or a hopper. This is the ratio laid down in Supreme Court decision affirming the orders of CEGAT on weighbridges reported in 1988 (38) E.L.T. 566. When parts or components of such goods are brought together at site, it cannot be viewed as manufacture of such goods in C.K.D. condition since the process of just purchasing and bringing together or transporting is not a process of manufacture. Accordingly, it is viewed that :-

(i) duty would be chargeable on the parts and components of such goods leaving the factory on the condition in which they are removed. Thus, if together they can be regarded as chimney or tank or scrubber or tower or hopper in C.K.D. condition or having the essential character of the aforementioned goods, they would be chargeable to duty under headings/sub-headings appropriate to such goods in their complete form, otherwise such parts and components should be charged to duty under headings/sub-headings appropriate to such parts and components;

(ii) at site, duty would be chargeable only if the assembly of parts/components results in a different recognisable marketable product before installation in an immovable manner. Mere bringing together of parts and components would not be excisable.

(iii) However, at site, if the piece by piece erection or installation of parts or components results in to an immovable property, then no duty would be required to be levied on such property."

7. Learned Counsel also draws our attention to the following decisions;

a. Tega India Limited Vs. CCE, 2004 (164) ELT 390 (SC)

b. Craft Interiors Pvt Ltd Vs. CCE, 2006 (203) ELT 529 (SC)

c. Metlex (1) Pvt Ltd Vs. CCE, 2004 (165) ELT 129 (SC)

d. Quality Steel Tubes Pvt Ltd Vs. CCE, 1995 (75) ELT 17 (SC).

e. Mittal Engineering Works Pvt Ltd Vs. CCE, 1996 (88) ELT 622 (SC).

f. CCE Vs. Wainganga Sahkari S. Karkhana Ltd, 2002 (142) ELT 12 (SC).

g. Silical Metallurgical Ltd Vs. CCE, 1999 (106) ELT 439 (Tri-Bang.) affirmed by Honorable Supreme Court in 1999 (108) ELT A58 (SC).

h. Triveni Engineering & Inds Ltd Vs. CCE, 2000 (120) ELT 273 (SC).

i. Dodsal Pvt Ltd Vs. CCE, 2006 (193) ELT 518 (Tri-Mum.) maintained by Honorable Supreme Court as reported in 2015 (320) ELT A36 (SC).

j. Petron Engg. & Construction Ltd Vs. CCE, 2009 (243) ELT 272 (Tri-Bang.).

k. CCE Vs. Hindustan Steel Works Construction Ltd, 2017 (358) ELT 516 (Tri-Hyd.)

l. Ajit India Pvt Ltd Vs. CCE, 1985 (19) ELT 541 (Tri.) affirmed by Honorable Supreme Court in CCE Vs. Ajit India Pvt Ltd, 2000 (119) ELT 274 (SC).

m. R.D.Plast Vs. CCE, 2017 (357) ELT 881 (Tri-Del.).

n. CCE Vs. Telco Ltd, 2006 (202) ELT 812 (Tri-Mum.).

o. Voltas Ltd Vs. CCE, 2011 (270) ELT 541 (Tri-Mum.).

p. CCE Vs. ETA Engg. (P) Ltd, 2008 (224) ELT 447 (Tri-Bang.).

q. CCE Vs. Crystal Corporation, 2017 (349) ELT 745 (Tri-Del.)

r. Al Karma Vs. CCE, 2019 (2) TMI 252 - CESTAT Chennai.

s. **Mccoy Architectural Systems Pvt Ltd Vs. CCE, 2018-TIOL-675-CESTAT-MUM.**

t. **Aluplex India Pvt Ltd Vs. CCE, 2006 (206) ELT 960 (Tri-Mum.).**

u. **CCE Vs. Ahluwalia Contracts India Ltd, 2016 (341) ELT 343 (Tri-Del.)**

v. **Ajit India Pvt Ltd Vs. CCE, 2004-TIOL-759-CESTAT-MUM.**

w. **AGV Alfab Ltd Vs. CCE, 2005 (186) ELT 451 (Tri-Del.).**

x. **Mahavir Aluminium Ltd Vs. CCE, 2003 (153) ELT 65 (Tri-Del.).**

y. **Ajni Interiors Vs. CCE, 2008 (230) ELT 562 (Tri-Ahmd.).**

z. **CCE Vs. Chawla Techno Construct Ltd, 2016 (343) ELT 587 (Tri-Del.).**

aa. **Lokhandwala Hotels Pvt Ltd Vs. CCE, 2005 (182) ELT 188 (Tri-Del.).**

bb. **Mahindra and Mahindra Ltd Vs. CCE, 2005 (190) ELT 301 (Tri-LB)**

cc. **Cosmic Dye Chemical Vs. CCE, 19954 (75) ELT 721 (SC)**

dd. **Jaiprakash Industries Ltd Vs. CCE, 2002 (146) ELT 481 (SC)**

ee. **Continental Foundation Joint Venture Vs. CCE, 2007 (216) ELT 177 (SC)**

8. Learned Counsel also draws our attention to the judgment of the Hon'ble Supreme Court in the matter of **Metlex (I) Pvt Ltd Vs. CCE**. (Supra), wherein it is held that; if the department still wanted to contend that the manufacturing had been undertaken, the department had to prove it by cogent evidence. The Tribunal was clearly in error in seeking to cast the burden on the appellants to show that there was no process of manufacture. Learned Counsel also draws our attention to the

judgement of the Hon'ble Supreme Court in the matter of **Quality steel Tubes Pvt Ltd. Vs CCE (Supra),** wherein it is held:-

> *"4. Levy and collection of duty is provided by Section 3 of the Act on all 'excisable goods other than salt which are produced or manufactured'. The power, therefore, to levy and collect the duty under the charging Section arises when excisable goods are produced or manufactured. What is an excisable goods' is defined by sub-section (d) of Section 2 to mean 'goods specified in the Schedule to the Central Excise Tariff Act, 1985 as being subject to a duty of excise and includes salt'. The words 'excisable goods', therefore, has a connotation of its own.*
>
> *5. In several decisions rendered by this Court commencing from Union of India & Anr., Vs. Delhi Cloth and General Mills Co., Ltd., 1977 (1) E.L.T. (J 177) (SC) = AIR 1963 SC 791 to Indian Cable Co. Ltd. Vs. Collector of Central Excise, Calcutta 1994 (74) E.L.T. 22 the twin test of exigibility of an article to duty under Excise Act are that it must be a goods mentioned either in the Schedule or under Item 68 and must be marketable. In Delhi Cloth Mills (supra) it having been held that the word 'goods applies to those which can be brought to market for being bought and sold it is implied that it applies to such goods as are movable. The requirement of the goods being brought to the market for being bought and sold has become known as the test of marketability which has been reiterated by this Court in Collector of Central Excise Vs. Ambalal Sarabhai Enterprises, 1989 (43) E.LT. 214. The Court has held in Union Carbide India Ltd. Vs. Union of India & Ors. - 1986 (24) E.L.T. 169 (SC) = (1986) 2 SCC 547 that even if a goods was capable of being brought to market, it would satisfy the test of marketability. The basic test, therefore, of levying duty under the Act is two fold. One, that any article must be a goods and second, that it should be marketable or capable of being brought to market. Goods which are attached to the earth and thus become immoveable do not satisfy the test of being goods within the meaning of the Act nor it can be said to be capable of being brought to the market for being bought and sold. Therefore, both*

the tests, as explained by this Court, were not satisfied in the case of appellant as the tube mill or welding head having been erected and installed in the premises and embedded to earth they ceased to be goods within meaning of Section 3 of the Act."

9. Learned Counsel also draws our attention to the decision of the Tribunal in the matter of **Ajit India Pvt., Ltd., Vs. CCE (Supra),** wherein it is held that:-

"17. The Central issues for decision by the Bench in these appeals may be summarised as follows:

(i) Classification and assessment of fully assembled windows, doors, shutters and other like products removed from the factory in fully assembled condition:

(ii) Classification and assessment of such products, if cleared from the factory in CKD or in ready-to-assemble condition for subsequent assembly at site:

(ii) Classification and assessment of pieces which have been subjected to processing like drilling, punching, riveting. etc. which the appellants claim to be aluminium sections and the department claims to be identifiable or component parts of windows, doors and the like whether they should be held to be aluminium sections only not liable to duty again under T.I. 68 or held assessable as component parts under T.I. 68.

18. The Bench feels that in respect of Central issues (i) and (ii) (i.e. completely assembled window frames, door frames and like items and ready to assemble items) the aluminium sections after being subjected to several processes result in bringing into existence complete door frame or window frame or like items. Similarly, if the pieces are in CKD packs or ready-to-assemble condition and may be fitted at site only after some minor operation, such pieces would be called goods and such processes manufacture' and these goods would be classifiable under T.1. 68 and liable to duty accordingly. This finding would thus answer issue No. 1 and 2. Taking up the 3rd issue, viz. classification and *assessment of pieces subjected to processes like the drilling, punching and riveting, etc. which the appellants claim to be aluminium sections and the department as identifiable the component parts of window doors and the items, we have already pointed out that the entire range of the appellants' activity with regard to these pieces is only generally before us. These processes by themselves do not constitute manufacture of excisable goods. The meaning of the term 'manufacture' and goods which alone attract Central Excise duty have been interpreted by the Supreme Court in the leading cases of Union of India Vs. DCM, [AIR 1963 S.C. 791 (1977 E.L.T. 99] and South Bihar Sugar Mills Vs. Union of India, 1978 E.L.T.J 336, wherein it has been held that manufacture involves bringing into existence a new substance and it does not mean merely producing same change in substance. Manufacture implies change but every change is not manufacture and yet every change of article is the result of the treatment labour and manipulation. But something more is necessary and there must be transformation and a new and different article must emerge having a distinct name, character and use. About the goods they held "these definitions make it clear that to become goods an article must be something which can ordinarily come to the market to be bought and sold". It is true that the appellants have in some cases sold doors and window frames and door frames. However, we are not now considering such window frames, door frames etc. but pieces of aluminium sections. From the evidence produced by the Department, it is not possible to make out whether these pieces have acquired any distinct name, character or use i.e. whether they are "goods". We might observe that while in order-in-appeal No. 304/83 dated 5-9-1983, the learned Collector of Central Excise (A), Madras in para 10 of his order generally observes that manufacture of such identifiable parts would constitute manufacture and that they have distinct name in the market. We find that the discussion is very general and does not disclose the evidence on which these findings are based. Another learned Collector of Central Excise (A) by his order-in-appeal No. E-1203, dated 18-6-1983 does not deal with these pieces at all and deals* *only with frames and windows. He holds that the appellants' are preparing frames and supplying them. Another Appellate Collector of Central Excise, Bombay by his order dated 29-11-1977 in para 3, of his order observes, "True, item is not available in the market as manufactured articles for sale/ purchase or trade but it is not necessary that an item should be so available in the market to attract excise duty". As already stated the Bench reiterates that merely cutting aluminium sections to different sizes, punching, drilling and riveting would not constitute manufacture. The lower authorities should with respect to these pieces have given a clear cut finding based on evidence with respect to each class of pieces, whether there is 'manufacture' and or whether they are 'goods'. The basis for the findings should also have been clearly stated to justify levy of excise duty thereon. In absence of this, we hold that these are not liable to excise duty."*

Further the said decision was upheld by the Hon'ble Supreme Court in the matter of Collector of **C. EX. Thane & Madras Vs. Ajit India Pvt Ltd. reported in 2000 (119) ELT 274 (SC).**

10. Learned Counsel draws our attention of the Tribunal in the matter of **R. D. Plast Vs. CCE, Delhi (Supra),** wherein it is held that:-

"*4. We have perused the findings of the Original Authority in this regard. The main reason given by the Original Authority to hold the process as manufacture is that the aluminium channels, which are of general nature were prepared for particular structure by the process of cutting, drilling and bending in the unit of the main appellant. The Original Authority concluded that the aluminium sections so prepared for use in the structures are not same goods as aluminium sections brought in from the market by the main appellant. It was concluded that the processes undertaken by the main appellant have resulted in bringing in a new and different article having distinct name, character or use. We find the Original Authority is in error in appreciating the factual and legal issue involved in the present dispute. It is not clear as to how an aluminium section cut to size and drilled/bent wherever required will become a distinct marketable product from the input used.*

Further, it is clear that such drilling and bending is not carried out in respect of all aluminium sections cut to required size by the appellant. Such drilling and bending is also carried out at site of the customers depending upon the requirement of structure to be installed in the premises along with other civil work. In such situation, it is necessary to have a clear recording on the facts as to what type of new identifiable product emerges from aluminium sections brought in by the main appellant. The Original Authority found the product cleared by the appellant to be classified under Heading 7610 as aluminium structures. He held that the aluminium sections have been prepared for use in the structure are not the same goods as aluminium sections brought in. We note the aluminium section remained as aluminium section as per the Original Authority's own finding. Further, the reliance placed on the decision of the Tribunal in Mahindra and Mahindra reported in 2005 (190) E.L.T. 301 (Tri.-LB) is not relevant. The Tribunal was examining the dutiability of various structural items before they are used in the construction process. It was held that the required structural parts are fabricated and before their permanent fixing will be liable to excise duty. In the present case, there is no clear finding regarding what type of structures as parts of such structures are emerging with categorical evidence. In such a situation we are unable to agree with the findings of the Original Authority that a new and different article having distinct name, character or use as emerged in the present case. As such, we find that the findings of this by the Original Authority cannot be sustained. The same is set aside and this matter requires a fresh consideration by the Original Authority to bring out the factual and legal position, more specifically after appreciating the evidences and nature of processes carried out by the main appellant and also various decided cases on similar set of facts.

11. Learned Counsel further submits that the issue was considered by Tribunal in the matter of **CCE Vs. Crystal Corporation (Supra),** where in it is held that upon fabrication the curtain wall of glass becomes part of civil construction. In such a situation, it is not sustainable to hold that

there is a marketable new product emerging in between. Similarly in the matter of **M/s. AL Karma Vs CCE, Chennai (Supra)**, wherein it is held that:-

> *"14. Thus, it can be seen from the circular that if the goods installed at site are capable of being sold or shifted as such, after removal from the base, then the goods would be considered to be movable and excisable. In the present appeal, the department has no case that the goods installed/structure erected can be shifted or disassembled without causing damage to the components/parts. Even as per the circular, the goods then would be immovable property and therefore, not excisable to duty. The Learned counsel has rightly pointed out that if the curtain wall/AWs, cladding are pulled down or dismantled, it/would result in scrap only.*

12. As regarding demand of duty on furniture, learned counsel draws our attention to the M/s. **Craft Interiors Pvt Ltd Vs. CCE (Supra),** wherein it is held that:-

> *"17. In view of the above discussion, we are of the opinion that these appeals have to be allowed. We hold that items which are ordinarily immovable or which ordinarily cannot be removed without cannibalizing e.g. storage units, running counters, overhead unit, rear and side unit, wall unit, pantry unit, kitchen unit and other items which are ordinarily immovable or cannot be removed without cannibalizing are not furniture. However, items like tables, desks, chairs etc. are furniture and hence excisable."*

13. Learned Authorized Representative (AR) for the Revenue reiterated the finding in the impugned order and submits that the Adjudication Authority has considered the issue in detail and only thereafter confirmed the demand of duty. Activity that has been undertaken by the appellant only at the factory premises is considered as manufacturing and same cannot be held as unsustainable.

14. As regarding CENVAT credit, in rejoinder Learned Counsel for the appellant draws our attention to the Chartered Accountant (CA) Certificate and submits that even if the demand is sustainable, appellant is eligible for Cenvat credit. Learned Counsel further draws our attention to the CA Certificate and submits that even if it is held that the furniture are subject to excise duty, the amount involved is below the threshold limit of excise duty exemption and for that reason also appellant is not liable to pay excise duty as confirmed.

15. Heard both sides and perused the records.

16. We find that it is an admitted fact that upon fabrication the impugned items become a part of civil construction. In such a situation, it is not sustainable to hold that there is a marketable new product emerging in between. Similarly, if the goods installed at site are capable of being sold or shifted as such, after removal from the base, then the goods would be considered to be movable and excisable. In the present appeal, the department has no case that the goods installed/structure erected can be shifted or dismantled to be movable property and, therefore, are excisable to duty. Further, they cannot be shifted or disassembled without causing damage to the components/ parts. Even as per the counsel it is has been rightly pointed out that if the curtain wall/AWs, cladding are pulled down or dismantled, it would result into scrap only. Considering the above facts and circumstances the activity of 'Installation of Structural Glazing work', 'Aluminium Doors', 'Aluminium Partitions' and 'Office Interiors' cannot be considered as manufacturing to confirm demand of duty along with interest and impose penalties.

17. In view of the above discussion and in the facts and circumstances of the case, the impugned order is not sustainable, hence liable to be set aside,

18. Accordingly, the appeals are allowed with consequential relief, if any, in accordance with law.

(Order dictated and pronounced in open court on 27.01.2025)

(P.A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

sasidhar