CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 3174 of 2012

(Arising out of Order-in-Appeal No.388/2012 dated 21.08.2012 passed by the Commissioner of Central Excise (Appeals), Mangalore.)

M/s. Print Top Rubber Industries
Plot No.152, Building No.2,
Machche Industrial Estate
Machche,
Belgaum - 14

Appellant(s)

VERSUS

The Commissioner of Central Excise
V Floor, Trade Centre,
Bunts Hostel Road,
Mangalore – 575 003.

Respondent(s)

APPEARANCE:

Shri Akbar Basha, Chartered Accountante for the Appellant.

Shri Shri Maneesh Akhoury, Asst. Commissioner (AR) for the Respondent.

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

FINAL ORDER NO. 21755 / 2025

DATE OF HEARING: 09.09.2025

DATE OF DECISION: 09.09.2025

PER: R. BHAGYA DEVI

Briefly the facts are that the appellant M/s. Print Top Rubber Industries are manufacturers of Rubber Rollers used for printing industry and also undertake the work of Re-rubberising/ Re-conditioning/Restoration of worn out rubber rollers for their customers. Alleging these re-conditioning works as Maintenance or Repair Services', the Revenue demanded service tax. The Commissioner (Appeals) in the impugned order confirmed the same by which the appellant is aggrieved and filed this appeal.

2. The Learned Chartered Accountant (CA) for the appellant submitted that the activity undertaken by them constitutes the sale and not a service as VAT has been paid on the entire value. Relies on the decision in the case of **Neodam Rubber Products Vs. Commissioner of Central Tax, Medchal-GST** vide **Final Order No. A/30220/2025 dated 23.06.2025** wherein it was held that the services rendered by the appellant do not fall under the category of 'Maintenance or Repair Services'.

3. The Authorised Representative (AR) reiterated the findings of the Commissioner (Appeals) in the impugned order.

4. Heard both sides. We find that the Tribunal in the case of **Zenith Rollers Ltd. Vs. Commissioner of Central Excise, Noida: 2014 (33) STR 678 (Tri.-Del.)** wherein the appellant had undertaken Re-rubberisation of old worn-out rubberized rollers, observed as follows:

> "**9.** We find that activities of the appellants are equally classifiable under two services namely Business Auxiliary Service and Maintenance or Repair service. Since the service cannot be classified under clause 'a' and 'b' of Section 65A, clause 'c' of Section 65A is attracted according to which service is classifiable under the sub-clause of Clause (105) of Section 65 which comes first. We find that Business Auxiliary service is covered under Section 65(105)(zzb) and Management, Maintenance or Repair Service is covered under Clause 65(105)(zzr). Since Business Auxiliary Service comes first under Clause 65(105)(zzb), we hold

> that service is classifiable under Business Auxiliary Service. We set aside the Order-in-Original and allow the appeal."

5. In view of the above, we do not find any merit in the impugned order and set aside the same. Consequently, appeal is allowed.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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