CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20546 of 2014

(Arising out of Order-in-Appeal No. MLR-EXCUS-000-DIVUDP-APP-HAB-057-13-14 dated 14.11.2013 passed by the Commissioner of Central Excise (Appeals), Mysore)

M/s. Hegde Agencies,
PWD Road,
Sirsi – 581 401.

Appellant(s)

VERSUS

Commissioner of Central Excise, Customs & Service Tax,
Mangalore Commissionerate
Mangalore.

Respondent(s)

APPEARANCE:

Ms. Swetha Elizabeth Sabor, Advocate for the Appellant

Mr. Vinod Kumar Garhwal, Superintendent(AR) for the Respondent

CORAM:
HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20829 /2026

DATE OF HEARING: 10.06.2026
DATE OF DECISION: 10.06.2026

PER : P.A. AUGUSTIAN

The issue involved in the present appeal is regarding eligibility of the appellant to claim the benefit of SSI Exemption as per Notification No.6/2005-ST dated 01.03.2005.

2. The appellant is a dealer of Yamaha two-wheelers and engaged in sale of motor vehicles and also undertaking incidental repair and servicing activities. Alleging that the

appellant being an authorized service station failed to pay service tax under Section 65(105)(zo) of the Finance Act, 1994, show-cause notice dated 10.07.2012 was issued demanding service tax under the category of 'authorised service station service' and thereafter adjudicating authority as per the Order-in-Original dated 26.02.2013 confirmed the demand and also imposed penalties under various provisions of law. Aggrieved by the said order, appellant filed appeal before the Commissioner(Appeals) and Commissioner(Appeals) vide the impugned order rejected their appeal. Aggrieved by the said order, present appeal is filed.

3. When the appeal came up for hearing, learned counsel for the appellant submits that the impugned order is unsustainable since the appellant discharged the entire tax liability prior to issue of the show-cause notice and entitled to the benefit of Section 73(3) of the Finance Act, 1994. It is further submitted that the denial of the benefit of Section 73(3) by invoking suppression of fact is unsustainable and appellant was under *bona fide* belief that they are is eligible for the SSI exemption and immediately, when it was pointed out by the Revenue, appellant obtained registration and discharged tax liability along with interest. In this regard learned counsel drew our attention to the Board's letter F.No.137/167/2006-CX dated 03.10.2007 and the decision of this Tribunal in the matter of Tidewater Shipping Private Ltd. Vs. CST, Bangalore [2008(11) STR 475 (Tri. Bang.)].

4. Learned AR for the Revenue reiterated the findings of the learned Commissioner(Appeals).

5. Heard both sides and perused the records.

6. During the course of hearing, the learned advocate for the appellant fairly submitted that they have paid the entire tax with interest prior to issue of show-cause notice and their only prayer is to set aside the penalty. We find that the Board vide letter F. No. 137/167/2006-CX dated 03.10.2007 and Section 73(3) provided that if the assessee cleared the Service Tax due along with interest on his own and even on the insistence of the departmental authority, then no penalty proceedings can be taken against them. Accordingly, the impugned order confirming the demand with interest and appropriation of amount paid by the appellant is upheld. Penalty imposed by the adjudicating authority and confirmed by the Commissioner(Appeals) is set aside. Appeal is partially allowed with consequential relief, if any, in accordance with law.

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

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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