

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60513 of 2019

[Arising out of Order-in-Appeal CHD-EXCUS-001-APP-310-311-2018-19 dated 29.03.2019 passed by the Commissioner (Appeals), GST & Central Excise, Chandigarh]

M/s Balaji Storage Batteries Ltd.

.....Appellant

Vpo-Behral, Tehsil Peonta Sahib, Sirmour,
Himachal Pradesh-173025

VERSUS

**Commissioner of Central Excise & S.T.,
Shimla**

.....Respondent

Ground & First Floor, Commercial Parking Complex,
Chota Shimla, Shimla, Himachal Pradesh-171011

WITH

Service Tax Appeal No. 60514 of 2019

[Arising out of Order-in-Appeal CHD-EXCUS-001-APP-310-311-2018-19 dated 29.03.2019 passed by the Commissioner (Appeals), GST & Central Excise, Chandigarh]

M/s Balaji Storage Batteries Ltd.

.....Appellant

Vpo-Behral, Tehsil Peonta Sahib, Sirmour,
Himachal Pradesh-173025

VERSUS

**Commissioner of Central Excise & S.T.,
Shimla**

.....Respondent

Ground & First Floor, Commercial Parking Complex,
Chota Shimla, Shimla, Himachal Pradesh-171011

APPEARANCE:

Shri R K Hasija and Shri Shivang Puri, Advocates for the Appellant

Shri Aniram Meena and Smt. Amita gupta, Authorized Representatives for
the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61728-61729/2025

DATE OF HEARING: 19.11.2025

DATE OF DECISION: 28.11.2025

P.ANJANI KUMAR :

M/s Balaji Storage Batteries Ltd., the appellants, are engaged in jobwork for M/s Eastman Auto & Power Ltd.; the dry batteries received from M/s Eastman are filled with electrolytic liquid and are placed in a tub, serially connected to charging points; after the batteries are charged liquid levels are checked; the batteries are dried and washed by the machines; the appellants were paying service tax on the above jobwork under the impression that the process does not amount to manufacture; after re-examining the issue, the appellants came to a conclusion that in terms of note 6 to Section XVI of Central Excise Tariff Act and the decision of the Delhi Tribunal in the case of Excise industries 2016 (333) E.L.T. 101 (Tri. Del.) that the process amounts to manufacture accordingly they have filed the refund two claims on 03.10.2017 and 28.03.2018; the Original Authority held that the process undertaken by the appellants does not amount to manufacture and hence, refunds cannot be sanctioned. On an appeal preferred by the appellants, learned Commissioner (Appeals) upheld the Orders-in-Original. Hence, these appeals.

2. Shri R.K. Hasija assisted by Shri Shivang Puri, learned advocates for the appellants submit that CBEC has issued a circular F.No.

4/3/2006-CX. I dated 16.06.2006 holding that the process undertaken by them amounts to manufacture. They also submitted this bench the case of M/s Eliza Power Industries 2025(10) TMI 733-CESTAT Chandigarh held that identical process amounts to manufacture in view of the decision of the Tribunal in the case of M/s Exide Industries. They submitted that the issue is thus no longer *res integra*. They further submit that a perusal of the invoices issued by the appellants indicates that though the appellants have mentioned the service tax paid by them in the invoices has not been paid by their buyer that is M/s Eastman Auto & Power Ltd.; copies of chartered accountant have also been submitted. He further submits that principle of unjust enrichment is not attracted because duty has not been collected and pocketed by the appellant. Moreover, as the service tax was not payable and was paid, the same would not take the colour of duty and thus, limitation under Section 11B is not attracted. They rely on the following cases:

- Jindal Stainless Steelway 2014 (310) ELT 194 (Tri. Mumbai) and (335)ELT 57 (Tri. Mumbai)
- Vardhman Industries Ltd. 2011 (271)E.L.T. 381 (P&H)
- Bharat Box Factory Ltd. 2007 (218) E.L.T. 355 (P&H)
- Auraiya Chamber of Commerce, Allahabad, 1986(4) TMI 50-Supreme Court
- KVR Construction,2011 (7) TMI 1334-SC Order
- Smt. Sujata Alva TMI 134-Karnataka high Court
- M/s Heliocan Agro Chemicals Ltd. TMI 1341-Karnataka high Court
- Verma Brothers TMI 1267-CESTAT Chandigarh
- M/s ACME Cleantech Solutions Pvt. Ltd. TMI 1711-CESTAT Allahabad

- M/s Indian Oil Corporation Ltd. TMI 798-CESTAT Chandigarh
- Solaris Chemtech Ltd.-2011 (273) E.L.T. 191 (Kar.)
- A.K. Spintex Ltd.- 2009 (234) E.L.T. 41 (Raj.)
- OM Pharmaceuticals Ltd.- 2011 (268) E.L.T. 79 (Kar.)
- Sudhir Papers-2012 (276) E.L.T. 304 (Kar.)
- Jineshwar Malleable & Alloyes-2012 (281) E.L.T. 43 (Kar.)
- Bhushan Steels Ltd.- 2015 (319) E.L.T. 347 (Tri.-Del.)/ 2016 (340) E.L.T. 107 (All.)

3. Learned Authorized Representative for the Department reiterates the findings of the impugned order and submits that as held in Metec Construction Technology Pvt. Ltd. – (2025) 33 CENTAX 154 (Tri. Mad.), provisions of Section 11B are applicable.

4. Heard both sides and perused the records of the case. We find that the issue is no longer res integra as far as holding that the process undertaken by the appellants amount to manufacture and therefore, service tax is not payable, in view of the decision of the Tribunal in the case of Exide industries (supra); the decision of this Bench in the case of Eliza Power (supra) and the CBEC Circular (supra). Therefore, we have no hesitation, whatsoever, in holding that the issue is covered in favor of the appellants as far as the merits are concerned.

5. Both learned Counsel for the appellants and the learned Authorized Representative for the Revenue put forth their respective submissions regarding limitation under Section 11B of Central Excise Act for filing an application for refund and on unjust enrichment. However, we find that the impugned orders restricted themselves to

the merits of the case and have not given any findings on the issue of limitation to file refund claim and unjust enrichment. Under the circumstances, it would not be prudent for this Bench, being an appellate forum, to decide the issue at this level. Therefore, we find that it would be in the interest of justice to remand the matter back to the original authority to decide the claim of the appellant on these issues, taking into account the records of the case, the submission of the appellant and the jurisprudence.

6. In view of the above, both the appeals are partly allowed as far as merits are concerned i.e. holding that the process undertaken by the appellants amount to manufacture. We remand both the appeals to the original authority.

(Order pronounced in the open court on 28.11.2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)