

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

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60908 of 2018

[Arising out of Order-in-Appeal No. APPL/CE/PKL/347-348/2017-18 dated 15.03.2018 passed by the Commissioner (Appeals), CGST-Panchkula]

M/s Hindustan Engineering Enterprises

.....Appellant

(Now Hindustan Pumps & Electricals
Engineerings Pvt Ltd.)
13, IDC Kunjpura Road,
Karnal, Haryana 132001

VERSUS

**Commissioner of Central Excise and
Service Tax, Panchkula**

.....Respondent

SCO No. 407-408,
Sector 8, Panchkula, Haryana 134119

WITH

Excise Appeal No. 60933 of 2018

[Arising out of Order-in-Appeal No. APPL/CE/PKL/347-348/2017-18 dated 15.03.2018 passed by the Commissioner (Appeals), CGST-Panchkula]

M/s Malkoh Marketing Pvt Ltd

.....Appellant

13, IDC Kunjpura Road,
Karnal, Haryana 132001

VERSUS

**Commissioner of Central Excise and
Service Tax, Panchkula**

.....Respondent

SCO No. 407-408,
Sector 8, Panchkula, Haryana 134119

APPEARANCE:

Shri Vikrant Kackria, Advocate for the Appellants

Shri Yashpal Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60381-60382/2026

DATE OF HEARING: 25.05.2026
DATE OF DECISION: 25.05.2026

S.S. GARG:

These two appeals are directed against the common impugned order dated 15.03.2018 passed by the Commissioner (Appeals) CGST, Panchkula, whereby, the Commissioner (Appeals) has rejected the appeal of the appellant and confirmed the Order-in-Original. Since, the issue involved in both the appeals are inter-connected and both have been decided by the common impugned order, therefore, both the appeals are taken up together for discussion and decision.

2. Briefly the facts of the present case are that M/s Hindustan Engineering Enterprises are engaged in the manufacturing of Submersible Pumps falling under Chapter Heading 841313. They were selling their products through a related marketing firm M/s Malkoh Marketing Pvt. Ltd. During the course of investigations, it was found that M/s Hindustan Engineering Enterprises had wilfully lowered the price of their product by arranging to sell their goods through M/s Malkoh, which resulted in issuance of Show Cause Notices to demand and recover Central Excise duty since 2003-04. The appellants are being issued show cause notices for the subsequent period thereto. For the period September, 2015 to June, 2016 the details of goods manufactured by M/s Hindustan

Engineering Enterprises and sold through M/s Malkoh Marketing Pvt. Ltd. was called for and an evasion of Central Excise duty amounting to Rs. 2,28,348/- was calculated and the appellants were issued Show Cause Notice dated 05.10.2016 to demand and recover Central Excise duty amounting to Rs. 2,28,348/- with interest besides proposing penal action against both the appellants that the adjudicating authority vide the Order-in-Original dated 18.10.2017 confirmed the demand along with interest and imposed penalties. Aggrieved by the said order, the appellant filed the appeal before the Commissioner (Appeals) who rejected the same. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. Learned Counsel for the appellant submits that the dispute in the present case is no more *res integra* and has been decided in the appellant's own cases for the previous period by the Tribunal in the following cases:

i) Hindustan Pumps & Electrical Engineering Pvt. Ltd. & Malkoh Marketing Pvt. Ltd. vs, C.C.E. & S.T., 2018 (10) TMI 532- CESTAT Chandigarh

(ii) Hindustan Pumps & Electrical Engineering Pvt. Ltd. & Malkoh Marketing Pvt. Vs. C.C.E. & S.T., decided vide Final Order No. 60685-60688/2024 dated 19.12.2024

(iii) Hindustan Pumps & Electrical Engineering Pvt. & Malkoh Marketing Pvt. Ltd. Vs. C.C.E. & S.T., decided vide Final Order No. 61730-61733/2025-DB dated 28.11.2025.

4.1 He further submits that both the authorities below have wrongly held that the appellant i.e. HEE (which is a company during the relevant period of time) and MMPL are related persons in terms of section 4(1)3(b)(ii) of the Central Excise Act, 1944 read with rule 9 of the Central Excise (Valuation) Rules, 2000 and section 2(41) of the Companies Act, 1956. He further submits that perusal of section 2(41) of the Companies Act, 1956, read with section 6 and Schedule IA of the said Act, it can be appreciated that the relationship between the natural persons have been enumerated as "relatives". Hence, two corporate entities cannot be "relative" in terms of section 4(1)3(b)(ii) of the Central Excise Act, 1944 read with section 2 (41) of the Companies Act, 1956. He further submits that in the case of Hind Lamps Ltd. v. Union of India [1977 E.L.T. (JI), the Hon'ble Allahabad High Court has held the concept of 'relative' as envisaged in Section 4(1)3(b)(ii) of the Central Excise Act, 1944, have no application to the case where the five customer-companies were not natural persons but impersonal bodies. He further submits that the decision has been affirmed by the Hon'ble Supreme Court in the case of U.O.I. vs. Hind Lamps, 1989 (43) E.L.T. 161 (S.C.). He further submits that the HEE and MMPL are not the related persons in terms of any clause of Section 4(1)(3) the Central Excise Act, 1944. He further submits that neither there is allegation in the show cause notice nor any

findings that the transaction price charged by HEE from MMPL was influenced by their relationship. The price was the sole consideration for the sale as evident from the fact that MMPL has sold the same goods at the profit of 5 to 7% only and valuation has been correctly made at the transaction value and Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, has no application in the present case.

4.2 On the other hand, learned authorized representative for the appellant reiterated the findings of the impugned order.

5. We have considered the submissions of both the parties and perused the material on record, we find that the issue involved in the present case is no more *res integra* and has been decided in favour of the appellant by this Tribunal in the decisions cited (Supra).

6. In this regard, we may refer to the findings of the Tribunal in the case of ***M/s Hindustan Engineering Enterprises Vs. Commissioner of Central Excise, vide Final Order No. 60685-60688/2024 decided on 19.12.2024***, wherein the Tribunal has held as under:

6. Heard both sides and perused the records of the case. We find that the same issue has come for consideration before this Bench in the appellant's own case for the demand raised for the period 2003-04 and 2005-06. The Bench vide Final Order No.63235-63241/2018 dated 05.10.2018 held that:

11. On going through the above provisions, we find that in terms of section 4(3)(b)(ii), If the person is relative then he should be relative in terms of Section 2(41) of Companies Act, 1956, which defines that relative means with reference to any person who is related to such person in anyway specified section 6 of and no others. The section 6 as cited hereinabove defines the relationship.

12. On going through the same, we find that as the Private Limited Company is not a living person and partnership firm is consist on various partners but the private company/partnership firm find no mention in limited schedule of 1(A) of section 6 of the Companies Act, 1956, therefore, the Revenue's case fails on this ground only.

13. In view of the above, we hold that the appellants are not related person in terms of Section 4(3)(b)(ii) of the Central Excise Act, 1944.

14. Further, we take note of the fact that valuation is to be done if the goods are not sold by the assessee except through the persons who is related. Admittedly, whole of the goods are not

sold by the M/s Hindustan through M/s Malkoh. In fact, M/s Hindustan is selling goods to Government Department as well as for exports. In that circumstances, the provisions of Rule 9 of Central Excise Valuation Rules, 2000, are not applicable to the facts of this case. Therefore, on that ground also, the charge of Revenue of under valuation is not sustainable.

15. Without going to the other aspect of the case, we hold that the appellant are not related persons in terms of section 4(3)(b)(il) of Central Excise Act, 1944 and provisions of Rule 9 of the Central Excise Valuation Rules, 2000, are not applicable to the facts of this case, therefore, the impugned orders are not sustainable in the eyes of law.

7. We further find that Commissioner (Appeals) vide Order dated 16.04.2013, deciding an order passed in respect of proceedings initiated against the appellants for the period January 2010 to September 2010, dropped the allegations. On an appeal filed by the Revenue against the said order, this Bench vide Final Order No.60628-60629/2023 dated 28.11.2023 dismissed the appeal, albeit on monetary grounds. We further find that Commissioner (Appeals) vide Order dated 28.01.2014 dropped the proceedings Initiated for the period October 2010 to July 2011.

8. In view of the above, we find that the issue is squarely covered in favour of the appellants and the impugned orders cannot be sustained. Accordingly, we allow all the four appeals.

7. By following the ratios of the above cited decisions in the appellant's own case cited (supra), we set aside the impugned order by allowing the appeals of the appellants.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)