

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI**

ST/00404/2010

[arising out of Order-in-Appeal No.88/2010, dated 24.03.2010 passed by the
Commissioner of Central Excise (Appeals), Madurai]

**COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX, APPELLANT
TIRUNELVELI**

Versus

M/s. DIAMOND SHIPPING AGENCIES PVT. LTD. RESPONDENT

Appearance:

For the Appellant Shri K.P. Muralidharan, AC (AR)
For the Respondent Shri N. Viswanathan, Adv.

CORAM:

**Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)**

Date of hearing/decision **18-12-2017**

FINAL ORDER NO. 43465 / 2017

Per B. Ravichandran:

The only dispute in the present appeal of the Revenue is against the impugned order dated 24.03.2010 of Commissioner of Central Excise (Appeals), Madurai is the taxability of the respondent for the services rendered by them under the category of "Cargo Handling Services". The respondent contested that the services rendered by them are more in the nature of transport.

2. After hearing both sides, we note that the Tribunal had examined the very same dispute in respect of the respondent themselves for the earlier period. Vide Final Order No.41223/2017, dated 07.07.2017, the Tribunal held that the essential character of the



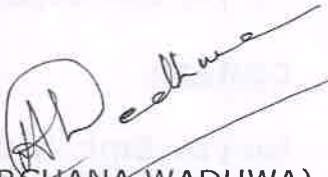
activity carried out is only of transportation and the same cannot be taxed under "Cargo Handling Services".

3. In view of the above decision of the Tribunal on the very same dispute in the respondent's own case, we find no merit in the present appeal of the Revenue. We note that the Tribunal examined the nature of services along with the clarification issued by the Board before arriving at the said conclusion.

4. In view of the above decision of the Tribunal in the respondent's own case, we find no merit in the present appeal by the Revenue. Accordingly, the same is dismissed.

(Dictated and pronounced in open court)


(B. RAVICHANDRAN)
MEMBER (TECHNICAL)


(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
22-01-2018



प्रमाणित प्रति / Certified True Copy


27/02/18
सहायक पंजीकार / Asst. Registrar
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चेन्नै / CHENNAI