

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

ST/301 to 303/2008 and ST/304/2008

(Arising out of Order-in-Revision No.11 & 12/COMMR/ST/2008 dated 15.10.2008 passed by the Commissioner of Central Excise & Service Tax, Tirunelveli).

1. M/s. Seaworld Shipping & Logistics (P) Ltd. : Appellants
2. M/s. Transindia Shipping and Logistics (P) Ltd.

Vs.

CCE & ST, Tirunelveli : Respondent

Appearance

Shri P.C. Anand, CA.,
For the appellant

Shri K.P. Muralidharan, AC (AR)
For the respondent

CORAM

Hon'ble Shri D.N.PANDA, Judicial Member
Hon'ble Shri MADHU MOHAN DAMODHAR, Technical Member

Date of Hearing/Decision: 10.02.2017

FINAL ORDER No. 40223-40226/2017

Per: D.N.Panda,

It is the submission of the Id. Counsel that reimbursement of expenses has been sought to be taxed in the adjudication order. So also he contends that such expenses were included in the gross value of the consideration received. Appellant fairly agrees that the Larger Bench decision in the case of *Sri Bhagavathy Traders*



Vs. CCE, Cochin reported in 2011 (24) STR 290 (Tri.LB) as well as *Intercontinental Consultants & Technocrats Pvt. Ltd. Vs. UOI* reported in 2013 (29) STR 9 (Del.) are awaiting Apex Court judgement. In such circumstances, both the decisions being in Jeopardy, Tribunal should not over-reach to the jurisdiction of the Apex Court, following the ratio laid down in the case of *UOI Vs. West Coast Paper Mills Ltd.* reported in 2004 (164) ELT 375 (S.C).

2. In view of the above, to serve interest of justice, all the appeals are remanded to the Id. Adjudicating authority to grant fair opportunity of hearing to the appellant for re-adjudication on the basis of outcome of the Apex Court decisions in the above two appeals.

(Dictated and pronounced in open Court)



(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

14⁰²
2017

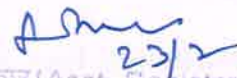


(D.N. PANDA)
JUDICIAL MEMBER

BB



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