CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHENNAI</u>

REGIONAL BENCH – COURT NO. III

Service Tax Appeal No. 40368 of 2015

(Arising out of Order-in-Appeal No. 004/2015 dated 06.01.2015 passed by Commissioner of Central Excise (Appeals-I), Madurai)

M/s. Arunachalam, **...Appellant**
Proprietor M/s. ACM Engineering Works,
1/65, Main Street,
Ambalakarapatti Uthangudi Post,
Madurai-625 107.

Versus

Commissioner of GST and Central Excise **...Respondent**
Central Revenue Building,
No.4, Lala Bahadur Shastri Road,
Bibikulam,
Madurai-625 002.

<u>APPEARANCE:</u>
Shri M. Kannan, Advocate for the appellant
Shri Sanjay Kakkar, Authorised Representative for the Respondent

<u>CORAM:</u>
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER(TECHNICAL)

<u>FINAL ORDER No. 40081/2025</u>

DATE OF HEARING: 04.12.2024
DATE OF DECISION:10.01.2025

Per: Mr. P. Dinesha

The period of demand in this appeal is from April 2008 to June 2012, the Show Cause Notice dated 04.07.2013 having been issued by invoking the larger period of limitation, is contended to be unsustainable and hence, the demand of

Service Tax under the category of "Manpower Recruitment or Supply Agency Service" (MRSA) is not tenable.

2. Heard Shri M. Kannan, Ld. Advocate for the Appellant and Shri Sanjay Kakkar, Ld. Deputy Commissioner, for the Respondent/Revenue. We have perused the documents placed on record and we have also considered the judicial precedents relied upon before us. The only issue that arises for our consideration is, "Whether the Revenue is justified in demanding Service Tax under "Manpower Recruitment or Supply Agency Service."?

3. It is the case of the Appellant that the nature of work was not within the ambit of the above Service and, at the most, the Service could be one under "Business Auxiliary Service" (BAS).

4. The Appellant, without prejudice, would also contend that he is eligible for the benefit of Notification No. 8/2005-ST dated 01.03.2005, and that the benefit of threshold exemption should also have been extended to him. It was contended that for the year 2008–09 threshold exemption limit was Rs.10 lakhs; the ledger account reflected the taxable value of Rs.12,88,720/-, after extending the benefit of threshold exemption of Rs.10 lakhs, the taxable value would be only Rs.2,88,720/- on which

the tax would be Rs.45,040/- and hence, the denial of the threshold exemption was not in accordance with law.

5. *Per contra*, the Ld. Departmental Representative relied on the findings of the authorities below.

6. It is contended, in the synopsis filed before us by the Ld. Advocate during hearing, that M/s. Aruna Alloys Steels Private Limited in their letter dated 24.12.2010 had indicated that the Appellant was engaged as a job worker to undertake various activities reflected in the above letter, but however, copy of the said letter is not placed on record before us and hence, we are unable to weigh the above contentions of the Appellant. We find that there is a reference to the said letter in the OIO at para 14.4 but unfortunately, the Adjudicating Authority has not given finding on this factual aspect. Hence, it is to be accepted that the Appellant undertook various activities like grinding, RT upgradation, gouging, machining, etc., which were claimed to be used as components of the boilers used in the thermal/nuclear power plants and therefore, the said activities undertook by the appellant would amount to 'manufacture' as claimed by the Appellant. By this, therefore, the authorities below have erred in ignoring this specific plea which otherwise would have entitled the appellant to the benefit of Notification No. 8/2005 *supra*.

7. Apart from the above, we do not find supply of any other labourers to M/s. Aruna Alloys Steels Private Ltd. and therefore, the allegation as to the 'Manpower Recruitment Supply Agency Service' may not survive. We have to thus hold that the Revenue has not proved its case to fasten the liability of Service Tax on the above head. Appeal is allowed with consequential benefits, if any, as per law.

(Order dictated and pronounced on 10.01.2025)

sd/-	sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

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