CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 41320 of 2015

(Arising out of Order-in-Appeal No. 13/2015 dated 23.03.2015 passed by Commissioner of Customs & Central Excise (Appeals-2), No. 1, Williams Road, Cantonment, Tiruchirappalli – 620 001)

M/s. Veesons Energy Systems Pvt. Ltd., **...Appellant**
C-14/2, Industrial Estate,
Tiruchirappalli – 638 182.

Versus

Commissioner of GST and Central Excise **...Respondent**
Trichy Commissionerate,
No. 1, Williams Road,
Cantonment,
Tiruchirapalli – 620 001.

APPEARANCE:

For the Appellant : Shri R. Raghavendran, Liquidator
For the Respondent : Shri N. Satyanarayanan, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40221 / 2025

DATE OF HEARING / DECISION: 13.02.2025

Per Mr. VASA SESHAGIRI RAO

Service Tax Appeal No. ST/41320/2015 has been filed by M/s. Veesons Energy Systems Pvt. Ltd., Trichy against the Order-in-Appeal No. 13/2015 dated 23.03.2015 passed by the Commissioner of Customs and Central Excise (Appeals-2), Tiruchirappalli.

2. Brief facts of the case are that M/s. Veesons Energy System(P) Ltd., Trichy (hereinafter referred to as 'Appellant') are engaged in the business of rendering taxable services under the category of "Consulting Engineering Service", "Erection, Commissioning and Installation Service" and "Business Auxiliary Service" covered under Section 65(105) of Chapter V of Finance Act, 1994. The appellant was also registered under "Transport of Goods by Road" as a service recipient and as "Input Service Distributor". The appellants are engaged in the manufacture of boiler parts/spares and agro waste boiler falling under CTH No. 84029020 and 84021910 respectively and clear the same on payment of duty for home consumption and also without payment of duty for export. The appellants are clearing their goods for export on payment of duty and claiming the duty as rebate under Rule 18 of Central Excise Rules, 2002. It was noticed that the appellants have not paid Service Tax under "Goods Transport Agency Services" on the freight amount paid against invoices issued by M/s. Gaerish Logistics (P) Ltd., Chennai who were engaged as C&F Agent by the appellants for handling their export goods.

3. Heard, Shri R. Raghavendran, Liquidator for the Appellant *viz.,* M/s. Veesons Energy Systems Pvt. Ltd. and the Ld. Authorised Representative Shri N. Satyanarayanan appearing for the Department through virtual mode.

4.1 On the basis of the submissions made by the Ld. Liquidator, it is ascertained that: -

i. The Appellant M/s. Veesons Energy Systems Private Limited was brought under CIRP by Hon'ble NCLT *vide* Order dated 19.06.2017 in CP/510/IB/CB/2017, and he was appointed as Resolution professional *vide* Order dated 28.07.2017 in CA/5/2017. Subsequently, he was appointed as the Liquidator *vide* order dated 19.03.2018 in CA/61/IB/2017 by Hon'ble NCLT, Chennai.

ii. During the period of liquidation, so far, all the assets of the Corporate Debtor, have already been sold and part of the sale proceeds were distributed as per the Liquidation process Regulations and the Code and as per the Orders of the Hon’ble NCLT and balance of the sale proceeds are under dispute in various pending cases with Hon’ble NCLT. Due to some of the pending cases, dissolution application could not be initiated.

iii. Liquidation order was intimated to the Central Excise on 05.04.2018. In response to the intimation, Liquidator received two claims in Form C dt.12.04.2018 for Rs.2,01,23,903/- another Form for Rs.1,56,18,879/- and also for Rs.45,05,024/- from the Deputy Commissioner of GST & Central Excise, Trichy. Both the claims were admitted in full and the same was intimated to the Deputy Commissioner of GST & Central Excise, Trichy *vide* our letters dated 17/05/2018 & 23.07.2018.

iv. The demand of Rs.3,08,272/- in Appeal No. E/41706/2015 for the year 2011-12,2012-13 was part of the above claim by the Central Excise Department and admitted by the Liquidator and the above appeal was dismissed by this Hon'ble Tribunal *vide* order dated 24.10.2024 as being infructuous.

4.2 Regarding the Service Tax Appeal No. ST/41320 of 2015, the Liquidator has submitted that: -

i. A Show Cause Notice C. No V /ST/15/5/2013-ST dated 04.10.2013 was issued for the period from Jan 2011-12 by the department to the Company before initiation of CIRP. The amount demanded was Rs. 1,74,515/- by denying the exemption notification No. 18/2009-ST on the ground that consignment notes were not submitted. The Appellant duly replied *vide* letter dated 04.12.2013 stating that they were eligible for exemption under Notification No. 18/2009-ST.

ii. The period of Transaction was related to Jan 2011 to Oct 2011. The demand was charged under non-compliance of GTA for transaction with M/s. Gaerish Logistics P Ltd.

iii. M/s. Gaerish Logistics P Ltd. is a C & F agent only. They collected taxable and non-taxable receipts from Appellants. Nontaxable transactions were Ocean freight charges; GDL container freight charges; Container transportation charges; & additional transport weighment charges.

iv. The above GTA services are exempted under Notification No. 18 / 2009-ST dated 07.07.2009 for exporters.

v. M/s. Veesons, the Appellant had filed relevant returns of EXP I & II belatedly in Jan 2012. (for the period of Jan 2011 to Oct 2011)

vi. The Ld. Adjudicating Authority demanded tax of Rs.1,74,515/- along with penalty and interest *vide* his Order-in-Original No.20/2014 dated 17.11.2014.

vii. An appeal was filed against above Order on 06.02.2015.

viii. Appeal Order received on 23.03.2015 in 13/2015 - TRY-(ST) with the same demand.

ix. CESTAT appeal was filed on 28.05.2015.

x. Liquidator did not receive any Claim from the Department for the demand raised till date.

xi. The above demand is not part of claim submitted by the Department on 12.04.2018 and admitted by the Liquidator on 23.07.2018 for Rs. 2,01,23,903/-.

4.3 The Appellant / Liquidator prays the Tribunal to set aside the impugned Order-in-Original No.20/2014 dated 17.11.2014 and Order-in-Appeal No. 13/2015 dated 23.03.2015 passed by The Commissioner of Central Excise (Appeal-II), Trichy and drop demand of Rs.1,74,515/- and order for the refund of the 10% mandatory pre-deposit of Rs.17,452/- by the GST Department and render justice.

5. He has further stated that as per the Liquidation Process Regulations, Liquidator shall distribute the sale proceeds as per waterfall mechanism prescribed under Section 53 of the IBC. He has also submitted that the appeal may please be disposed of as closed.

6. We have noted that the Hon'ble Apex Court in the case of *Ghanshyam Mishra [2021 (9) SCC 656]* has framed the question in Para-No. 2 as follows: -

> *"2. The short but important questions, that arise for consideration in this batch of matters, are as under:*
>
> *(i) ……*
>
> *(ii) …….*
>
> *(iii) As to whether after approval of resolution plan by the Adjudicating Authority a creditor including the Central Government, State Government or any local authority is entitled to initiate any proceedings for recovery of any of the dues from the Corporate Debtor, which are not a part of the Resolution Plan approved by the adjudicating authority?"*

In Para 95 of the said order, the above question was answered as given below: -

> *"95. In the result, we answer the questions framed by us as under:*
>
> *(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be*

entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii)….."

It is noted that the Department has not registered its claim with the Liquidator as above and so, no further proceedings can survive in this appeal.

7. At this juncture, it is also expedient to refer to Rule 22 of the Customs, Excise, Service Tax Appellate Tribunal (Procedure) Rules, 1982 which reads as follows: -

> *"**RULE 22. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or application. —** Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the appellant or applicant or respondent, as the case may be :*
>
> *Provided that every such application shall be made within a period of sixty days of the occurrence of the event :*
>
> *Provided further that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit."*

8. As the NCLT, Chennai has ordered for Liquidation of the appellant *vide* its order dated

19.03.2018 and as the Liquidator has confirmed non receipt of claim from the Deputy Commissioner of GST and Central Excise, Trichy and also as no application as per Rule 22 has been made by the Official Liquidator appointed by the NCLT for continuance of the appeal, the appeal should abate in terms of the above referred Rule.

9. As such the appeal gets abated in terms of Rule 22 of the CESTAT (Procedure) Rules, 1982.

(Order pronounced in open court)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

MK