CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Excise Appeal No. 40437 of 2018

(Arising out of Order-in-Appeal No.270/2017 (CTA-II) dated 30.09.2017 passed by Commissioner of Service Tax [Appeals-I], Newry Towers, 2054/I, II Avenue, 12^{th} Main Road, Anna Nagar, Chennai 600 040)

M/s.GE T & D India Ltd. **.... Appellant**
(formerly known as Alstom T&D India Ltd.),
FSSC Building, 19/1, GST Road,
Pallavaram,
Chennai 600 043.

VERSUS

The Commissioner of GST &
Central Excise **... Respondent**
Chennai Outer Commissionerate,
No.2054, I Block, II Avenue,
12^{th} Main Road, Anna Nagar,
Chennai 600 040.

APPEARANCE :

Shri Joseph Prabakar, Advocate for the Appellant
Shri M. Selvakumar, Authorized Representative
for the Respondent

CORAM :

HON'BLE SHRI P. DINESHA, MEMBER (JUDICIAL)
HON'BLE SHRI VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No.40425/2026

DATE OF HEARING : 28.01.2026
DATE OF DECISION :25.03.2026

Per: Shri P. Dinesha

This Appeal is filed against the Order-in-Appeal No.270/2017 (CTA-II) dated 30.09.2017 passed by the Commissioner (Appeals-I), Chennai and the only issue that arises for our consideration is, 'whether the non-production of certificate from the Nodal Ministry could result in denial of benefit of Exemption Notification ?'

2. Heard Shri Joseph Prabakar, Ld. Advocate for the Appellant and Shri M. Selvakumar, ld. Assistant Commissioner for the Respondent and perused the documents placed on record including the judicial precedents filed during the course of arguments.

3. Facts are not in dispute, the Appellant who is the manufacture of SF Gas Circuit Breakers, had filed a declaration under Rue 173B claiming exemption in respect of 123 KV SF6 Circuit Breakers and parts/components of the same and availed NIL rate of duty under Exemption Notification No.108/95-CE dated 28.08.1995. During the CERA Audit it was the case of the Revenue, that the Audit team having observed that the

Appellant had filed the certificate from the Project Authority itself [Chief Engineer, Karnataka Electricity Board] instead of certificate from the Nodal Ministry and accordingly, a Show Cause Notice dt. 03.08.1998 came to be issued which was adjudicated later on by the Adjudicating Authority who felt it proper to drop the proposed demand however, imposing a penalty under Rule 25 of the Central Excise Rules, 2002 for some contravention. Aggrieved by the above dropping of demand, it appears that the Revenue preferred an Appeal before the First Appellate Authority who, after hearing, having allowed the Revenue's Appeal, has given rise to the present Appeal before us.

4. At the outset, we find that the above issue has already been considered and laid to rest by the jurisdictional Madras High Court in the case of **CCE Pondicherry Vs Caterpillar India Pvt. Ltd.** [2013 (297) ELT 8 (Mad.) as affirmed by Apex Court reported in 2016 (335) ELT A27 (SC)] the Hon'ble High Court in an Appeal arising from the order of CESTAT Bench, has observed as under :

> **"6.** Aggrieved by this, the assessee went on appeal before the CESTAT, who agreed with the assessee's contention by following the decisions of the Tribunal in *Toyo Engineering India Ltd* v. *CC*, *Mumbai* reported in 2000 (122) E.L.T. 315. The Tribunal pointed out that it was not the case of the Department that the goods had not been supplied to the projects

financed by the International Organisation. The CESTAT further pointed out that there is nothing on record to show that the goods were used in any other project other than in implementation of the Golden Quadrilateral Project; considering that the goods had admittedly been used in the project and after the completion of the projects, the goods supplied to the various sub-contractors were entrusted to retain the goods supplied could not stand in the way of granting the exemption under the Notification. Further there was no evidence that the goods in question were used in any other project after the implementation of Gold Quadrilateral Project. In the circumstances, the CESTAT allowed the appeal. Aggrieved by this, the present Civil Miscellaneous Appeal by the Revenue.

… …. ….

8. We do not find any justifiable ground to interfere with the order of the CESTAT based on a factual finding and there was no material placed by the Revenue on the allegations of the possible misuse of the goods for unintended purposes by the sub-contractors. Secondly, being the beneficial Notification issued in public interest and the project itself being executed fully by the Contractors as per the directions of the Project Implementing Authority, the fact that the machineries were not given directly to the project implementing authority but given to the agency executing the work in fact cannot go against the assessee's claim. Thus ultimately, as the machineries had been put in use by the sub-contractors, who were given the job of execution the claim for exemption cannot be denied. The use of the phrase 'supplied to the projects financed by the said United Nations or an International Organisation and approved by the Government of India' clearly shows that the condition for grant of exemption is supply of the goods towards the project and nothing beyond. ………..]"

5. Even in the case on hand, it is not the case of the Revenue the goods in question were misused or diverted by the Appellant and hence, the only shortcoming is the non-furnishing of a certificate from the Nodal Ministry which, according to us, is only a formality. The Appellant has claimed the usage of the

goods in question which has duly been acknowledged by the Project Authority viz. Karnataka Electricity Board who is apparently the beneficiary under the Scheme funded by the International Organization i.e. Asian Development Bank (ADB). In the above factual background, considering the ratio of the Hon'ble High Court in **Caterpillar India Pvt. Ltd.** *supra,* we are of the view that the denial of benefit is not in accordance with law and hence, the impugned order cannot sustain.

6. In the result, the impugned order is set aside and the Appeal is allowed.

(Order pronounced in open court on 25.03.2026)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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