

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. I

Excise Appeal No.41387 of 2018

(Arising out of Order-in-Appeal No.224/2018 (CTA-I), dated 07.05.2018 passed by Commissioner of GST & Central Excise, Appeals – I, 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai 600 034).)

E-Mox Device Company

.... Appellant

R.S.No.112/ 4 & 8
Sedarapet Industrial Area
Sedarapet
Puducherry 605 111

VERSUS

Commissioner of GST & Central Excise

... Respondent

No.1, Goubert Avenue
Puducherry 605 001

APPEARANCE:

Mr. G. Krishna Moorthy, Advocate, for the Appellant

Mr. N. Satyanarayana, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No.40563/2026

DATE OF HEARING:29.04.2026

DATE OF DECISION :05.05.2026

Per Mr. AJAYAN T.V.

E Mox Device Company, the Appellant herein has preferred this appeal against the Order in Appeal No. .. dated... (the impugned order) aggrieved to the extent the Appellate Authority has upheld the demand of duty along with interest as confirmed vide the Order in Original No.01/2018 dated 12.01.2018 of the Adjudicating Authority.

2. The relevant facts of the case are that the Appellant is a registered manufacturer of Blow Moulded HDPE Plastic Bottle Caps. On verification of the records of the Appellant, it was noticed that the Appellant was

manufacturing these plastic caps on behalf of Marico Limited, Puducherry (Marico) on job work basis using the inputs supplied by the principal manufacturer. It was noticed that the Appellant had been clearing the said excisable goods on payment of central excise duty for which the assessable value had been arrived at by adding material cost and the conversion cost charged by them on the strength of the cost certificate furnished by C.A. for every quarter of the year. The department was of the view that since the caps sold by the Appellant were put to use in further manufacture by Marico, valuation had to be made in accordance with the provisions of Rule 10A (iii) of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 read with Rule 8 of the Rules *ibid* by adopting 110% of the cost of production of the said goods as the assessable value. Therefore, a Show Cause Notice dated 16.11.2017 (SCN) on the aforesaid allegation was issued demanding differential central excise duty on the goods cleared for the period from November 2015 to June 2017 along with appropriate interest and proposal to impose penalty under Rule 25 of the Central Excise Rules, 2002. After due process of law, the Adjudicating Authority confirmed the demand along with appropriate interest, imposed a penalty under the proposed Rule. Aggrieved, the Appellant preferred an appeal before the Commissioner of GST & Central Excise (Appeals -I), Chennai. The Appellate Authority, vide the impugned order, while dropping the penalty, confirmed the demand of duty with applicable interest. Hence this appeal.

3. Mr. G. Krishna Moorthy, Ld. Advocate appearing for the Appellant contended that Rule 8 will come into play only when the Appellant uses the goods so manufactured captively in his plant whereas in this case the caps are used by Marico, the principal manufacturer. It is submitted that the issue is already decided the issue in the Appellant's favour as can be seen from the Final Order No.41079-41080/2025 dated 30-09-2025 passed in respect of the same appellant holding that Rule 8 will not be applicable.
4. Mr. N. Satyanarayan, Ld. Authorised Representative for the Respondent reiterated the findings of the Appellate Authority.

5. We have heard both sides and perused the material available on record.
6. The only issue that arises for our determination is whether the value of the blow moulded HDPE plastic caps manufactured by the Appellant has to be determined in accordance with Section 4 of the Central Excise Act, 1944 read with sub-rule (iii) of Rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 read with Rule 8 *ibid* by which the value of the goods ought to be 110% of the cost of production of manufacture of the goods.
7. We find that in the Appellant's own case, a coordinate bench of this Tribunal in the decision reported as ***M/s. Smith Enterprises and M/s. E-Mox Device Company Versus Commissioner of GST and Central Excise, Puducherry, 2025 (10) TMI 175-CESTAT CHENNAI***, has decided the issue in the Appellant's favour. The relevant portions are reproduced below:

"8. The only issue which arises for decision in these appeals is whether the value to be adopted for job worked goods was in terms of Rule 10A (iii) read with Rule 8 of CEVR, 2000?

9. We find that the Appellants have manufactured HDPE Plastic Caps on job work basis and have paid duty on the assessable value worked out by taking into account the cost of materials plus conversion cost. The principal manufacturer (M/s. Marico) used the caps for fitment onto bottles, in its factory, for filling coconut oil. The department therefore contends that after 01.04.2007 the valuation should be done applying Rule 10A(iii) r/w Rule 8 of Central Excise Valuation Rules which applies when goods are not sold. The appellant does not captively consume the goods nor does M/s. Marico consume it on behalf of appellant. The very same issue has been considered by this Tribunal in the case of M/s Smith Enterprises, one of the Appellants vide Final Order No. 40293-40297/2018 dated 02.02.2018 following the judgement in the case of M/s. Advance Surfactants India Ltd. Vs CCE, Mangalore [2011 (274) ELT 261 (Tri.-Bang.)], the extracts of which has been reproduced below: -

"6. *The undisputed fact in these cases is the appellant herein is a job worker manufacturing LABSA for M/s. HUL. It is also undisputed that HUL gives LAB and the appellant uses other consumables in the manufacture of LABSA. It is also undisputed that the appellant has been valuing the said LABSA cleared from factory premises, based upon the cost of material plus*

processing charges prior to 1-4-2007 when the provisions of Rule 10A were inserted into the Central Excise Valuation Rules, 2000. It is also undisputed that the said LABSA is returned back to M/s. HUL for further consumption in their factory premises for manufacturing of soaps and detergents. It is nobody's case that LABSA consumed by HUL is on behalf of the appellant herein.

7. On these factual matrix we need to appreciate the provisions under Rule 10A, which is reproduced herein under:-

"RULE 10A. Where the excisable goods are produced or manufactured by a job-worker, on behalf of a person (hereinafter referred to as principal manufacturer), then, -

(i) in a case where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job-worker, where the principal manufacturer and the buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the transaction value of the said goods sold by the principal manufacturer;

(ii) in a case where the goods are not sold by the principal manufacturer at the time of removal of goods from the factory of the job-worker, but are transferred to some other place from where the said goods are to be sold after their clearance from the factory of job-worker and where the principal manufacturer and buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of said goods from the factory of job-worker;

(iii) in a case not covered under clause (i) or (ii), the provisions of foregoing rules, wherever applicable, shall mutatis mutandis apply for determination of the value of the excisable goods :

Provided that the cost of transportation, if any, from the premises wherefrom the goods are sold, to the place of delivery shall not be included in the value of excisable goods.

Explanation. - For the purposes of this rule, job-worker means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer, from any inputs or goods supplied by the said principal manufacturer or by any other person authorised by him."

7.1 It can be seen from the above reproduced provisions that provisions of Rule 10A can be brought into play only when there is a situation where

excisable goods are produced or manufactured by a job worker on behalf of a person and cleared to the buyer of the principal and/or cleared to a depot or a consignment agent. The intention of the Legislature was to capture the tax on the goods, on the value of the said goods when cleared to the ultimate consumers. In the case in hand, we find that provisions of Rule 10A(i) and (ii) does not arise as has been recorded by us in the earlier paragraphs. Provisions of rule 10A(iii) gets attracted which talks about a situation where 10A(i) or (ii) does not apply. The said provision (iii) very clearly mandate that in a case not covered under clause (i) or (ii), the provisions of foregoing rules, wherever applicable shall *mutatis and mutandis* apply for determination of value of the excisable goods. This would indicate that the provisions of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 has to be gone through serially. It is not the Revenue's case that provisions of Rules 3, 4, 5, 6 and 7 would also apply in this case. Revenue is of the view that provisions of Rule 8 will apply. In order to understand the Revenue's case, we reproduce the provisions of Rule 8.

"RULE 8. Where the excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles, the value shall be [one hundred and ten per cent] of the cost of production or manufacture of such goods."

7.2 It can be seen from the above reproduced Rule that this will come into play only when the goods are used for consumption by the assessee or on his behalf, in the production or manufacture of other articles, in such a case the value shall be 110% of the cost of production or manufacture of such goods. If this rule needs to be applied in the case, then it is to be on record that LABSA is a product of the appellant herein and is consumed by HUL on appellant's behalf or the said products are consumed by some other job worker of the appellant, in his factory for further manufacturing of goods. In the absence of any such situation, we are of the view that provisions of Rule 8 will not come into play. As already reproduced herein above, it is undisputed that LABSA is manufactured by job worker and cleared to HUL for further consumption and the said LABSA is the intermediate product required by HUL which is manufactured or produced by the appellant as a job worker. The key words in Rule 8 that needs to be interpreted are 'consumption by an assessee or on his behalf' for applying the said Rule for arriving at valuation or determination of goods. In the case in hand, it is very clear and not disputed that the appellant is not consuming the said

LABSA nor is it consumed on his behalf by HUL. In our considered view, the provisions of Rule 8 will not get attracted in this case.

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11. That still leaves us with a question of how the determination of value has to be done as provided under Rule 10A(iii). By elimination of Rule 2 to 10 as they may not apply in a situation like in this case provisions of Rule 11 will apply and Revenue has to take the recourse to provisions of Rule 11 which talks about using reasonable means consistent with the principles and general provisions of these rules read with sub-section (1) of Section 4 of Central Excise Act, 1944. Keeping this in mind, we find that the ratio laid down by the Hon'ble Supreme Court in the case of Ujagar Prints and followed by various other decisions of this Tribunal and accepted by Revenue in their various Circulars will squarely apply i.e. to ascertain the assessable value on the cost of materials plus processing charges. In our view, the appellants have been correctly valuating their products by adopting this method.

12. We find that the judgment relied upon by the learned SDR of this Bench in the case of Ultrapack is on a different set of facts i.e. in that case, the 'Ultramarine blue' was sent in bulk form by M/s. Reckitt Benckiser India Ltd. and the said product was repacked by the assessee, for Reckitt Benckiser India Ltd. and hence it was held that Rule 8 will be applicable. It can be seen that in that case, Rule 8 was invoked because it was undisputed that repacking was done on behalf of Reckitt Benckiser India Ltd. which would clearly attract the provisions of Rule 8. The situation in the current appeal before us is totally different which has been set out by us in the earlier paragraphs. In view of this, the decision of this bench in the case of Ultrapack will not be applicable.

13. In the facts and circumstances of the case, in view of the foregoing, we are of the considered view that the impugned orders are unsustainable and are liable to be set aside and we do so. Impugned orders set aside and Appeals allowed."

10. We find that the above decision of the Tribunal was followed in subsequent judgements delivered by the Tribunal in the case of Rolastar Pvt. Ltd. Vs. CCE, Daman [2012 (276) ELT 87 (Tri.-Ahmd.)] which was affirmed by the Hon'ble Supreme Court in [2013 (298) E.L.T. A186 (S.C.)] wherein it was held that: -

"In these appeals, no substantial question of law arises for our consideration. The same are dismissed accordingly."

The Appellate Tribunal in its impugned order had held that finished product (hollow profiles) manufactured on job work basis were sent back to principal-manufacturer providing raw material and consumed by the principal-manufacturer for further manufacture of final product. Rules 10 and 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules 2000 not applicable."

11. We are consciously refraining from burdening this order by reproducing from the wealth of jurisprudence available in this regard to avoid prolixity. It is suffice to note that similar view has been taken earlier by this Tribunal in more or less similar facts and circumstances, and the issue is no longer Res-Integra as can be seen from the above decisions, and also in the decisions in the 3 CASES of the One of the Appellant (Smith Enterprise) by this Tribunal. The Appellant also made additional submissions on 11/08/2025, placing reliance on the following cases: -

i. Bhavani Enterprises, Sree Mukambigai Polymers and Smith Enterprises Order Nos 40293-40297/2018 dated 2/2/2018

ii. Sree Mukambigai Polymers Final Order No 40502/2024 dated 30/4/2024

iii. Indian Extrusion Vs CCE Mumbai -2012 (283) ELT 209 (Tri-Mum)

In all the above decisions, it was held that where the finished products manufactured on job work basis,were sent back to principal-manufacturer providing raw material and consumed by the principal-manufacturer for further manufacture of final product, Rules 10 and 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules 2000 are not applicable and the question framed by us is answered in favour of the Appellant.

12. In view of the clear ratio decidendi, we hold that the impugned orders in appeal cannot sustain insofar as the duty demand which is challenged in these appeals is concerned.

13. Resultantly, we set aside the impugned Orders-in-Appeal Nos. 263 & 264/2017 dated 22.05.2017 and allow the appeals with consequential benefits if any, as per law."

8. Revenue has not shown to us that the aforesaid Final Order in the appellant's own case, reported as ***M/s. Smith Enterprises and M/s. E-Mox Device Company Versus Commissioner of GST and Central Excise, Puducherry, 2025 (10) TMI 175-CESTAT CHENNAI***, has not attained finality. Therefore, when the lis, regarding the nature of the

particular transaction and its exigibility to excise duty inter se the parties, has attained finality and all the more when there is no allegation or evidence that the present transactions are of a different nature, that forms yet another compelling reason to decide the present dispute in the Appellant's favour.

9. For the aforesaid reasons, respectfully following the decision of the coordinate bench noticed above, we set aside the impugned order.

The Appeal is allowed with consequential relief(s) in law, if any.

(Order pronounced in open court on 05.05.2026)

AJAYAN T.V.)
MEMBER (JUDICIAL)

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(M. AJIT KUMAR)
MEMBER (TECHNICAL)