CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

Appeal No. ST/121/2009

(Arising out of Order-in-Appeal No. 28/2008 (V-I) (ST) dated 25.11.2007 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

M/s LG Polymers India Pvt. Ltd., ...Appellant(s)

Vs.

Commissioner of Customs, Central Excise & Service Tax, Visakhapatnam .....Respondent(s)

Appearance
Shri B.N. Gururaj, Advocate for the Appellant.
Shri P.S. Reddy, Assistant Commissioner (AR) for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 12/09/2018
Date of Decision: 12/09/2018

FINAL ORDER No. A/31212/2018

[Order per: M.V. Ravindran]

This appeal is directed against Order-in-Appeal No. 28/2008 (V-I) (ST) dated 25.11.2007.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue is regarding demand of service tax for the period 2004 to 2005 under reverse charge mechanism for payment of royalty charges for usage of

brand name to a person situated at abroad. The same has been demanded as per the provisions of Section 65(105) of Finance Act, 1994 read with Section 2(d)(iv) of Service Tax Rules, 2005.

4. It is seen that this issue is no more res integra as Hon'ble High Court of Bombay in the case of *Indian National Shipowners Association Vs. Union of India* [2009 (13) STR 235 (Bom.)] has settled the law wherein, it is held that demand of Service Tax liability can arise under the reverse charge mechanism from 18.04.2006 only as it is on that date, provisions of Section 66A of the Finance Act, 1994 came into statute. In the case in hand, the said ratio will apply in its full force and accordingly, we hold that the impugned order is unsustainable. The said judgment of the Hon'ble High Court of Bombay was carried in SLP before the Apex Court and the Apex Court dismissed the SLP as reported at *Union of India Vs. Indian National Shipowners Association* [2010 (17) STR J57 (S.C)].

5. In view of the foregoing, the impugned order is set aside and the appeal is allowed.

(Order pronounced and dictated in open court)

P. VENKATA SUBBA RAO	**M.V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Lakshmi….