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

Appeal No.	**Appellant**	**Respondent**	**Impugned Order No. & Date**
E/697/2009	Analogic Controls India Limited	CCT, Secunderabad GST	O-I-A No.13/2009 (H-II) CE, dated 17.06.2009 passed by CCCE&ST (Appeals-II), Hyderabad.
E/1581/2010	Analogic Controls India Limited	CCT, Secunderabad GST	O-I-A No.04/2010 (H-II) CE, dated 17.03.2010 passed by CCCE&ST (Appeals-II), Hyderabad

Appearance
Shri Lalit Mohan Chandna, Advocate for the Appellant.

Shri Guna Ranjan, Superintendent/AR for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 13.11.2018
Date of Decision: 13.11.2018

FINAL ORDER No. A/31541-31542/2018

[Order per: Mr. M.V. Ravindran)

1. These two appeals are directed against Orders-in-Appeal No. 13/2009 (H-II) CE, dated 17.06.2009 and 04/2010 (H-II) CE, dated 17.03.2010.

Since both the appeals are of the same assessee, we dispose the same by a common order.

2. Heard both sides and perused the records.

3. The short issue that falls for consideration is whether the appellant is eligible for availment of exemption under Notification No. 63/95-CE, dated 16.03.1995 for the goods manufactured and cleared by them to Hindustan Aeronautics Limited (HAL).

4. We find from the records that the said notification 63/95-CE specifically grants exemption to various goods manufactured by HAL and supplied to Defence/Indian Air Force. In the case in hand, the products manufactured by appellant are supplied to HAL without payment of duty claiming exemption under Notification No. 63/95-CE, dated 16.03.1995. An identical issue was considered by this Bench in the case of Enertech Engineering (P) Limited by Final Order No. A/31124/2018, dated 07.08.2018 and held against the assessee, we find no reason to deviate from such a view already taken. Accordingly, we hold that the impugned orders are correct to the extent of confirmation of demand and the interest thereon.

5. As regards the penalty, we find that during the relevant period in question, various decisions were held a view that the exemption notification No. 63/95-CE should be extended to the factories of Hindustan Aeronautics

Limited, Bharat Electronics limited and others. In view of this, we set aside the penalty imposed under Rule 25 in both the cases.

6. In sum and on merits, we uphold the demands along with interest but set aside the penalties.

7. Appeals stand disposed of, as indicated herein above.

(Dictated and Pronounced in open Court on 13.11.2018)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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