

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH AT HYDERABAD**

Division Bench  
Court - I

**Appeal No. E/1948/2011**

(Arising out of Order-in-Appeal No.47/2011 (H-III) CE dated 14.05.2011 passed by  
CCCE & ST (Appeals-III), Hyderabad)

**Enertech Comnet Pvt Ltd** ..... **Appellant(s)**

**Vs.**

**CCCE & ST, Hyderabad - III** ..... **Respondent(s)**

**Appearance**

Shri M.V.S. Prasad, Advocate for the Appellant.

Shri C. Mallikarjun Reddy, Superintendent/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: 20.12.2018**

**Date of Decision: 20.12.2018**

**FINAL ORDER No. A/31629/2018**

**[Order per: P.V. Subba Rao.]**

1. This appeal has been filed by the appellant against Order-in-Appeal 47/2011 (H-III) CE dated 14.05.2011.
2. Learned counsel for the appellant submits that aggrieved by Order-in-Original dated 16.11.2010, they filed an appeal before the first appellate authority who dismissed the appeal in terms of Sec.35F of Central Excise Act, 1944 for non-compliance of the condition of stay granted vide Order-in-Stay Petition No.27/2011 (H-III) dated 21.03.2011. Learned counsel would submit that they have not been heard on the merits of the case and they have a strong case on merits and hence, the impugned order may be set aside and their appeal may be allowed. After hearing both sides for some time, we find that the issue involved in this case is identical to the case of Enertech Engineering Pvt Ltd in appeal E/1935/2010 decided by this Bench vide Final Order No. A/31124/2018 dated 07.08.2018. The issue which falls

for consideration is whether the appellant is entitled to get the benefit of exemption notification 63/95-CE dated 16.03.1995 with regard to the products they manufactured and submitted to M/s BEL and some PSUs who in turn supplied this to the Ministry of Defence. The exemption notification specifically exempts goods manufactured by M/s BEL and some PSUs and not the suppliers of BEL and some PSUs. This issue was discussed at length in our Final Order No. A/31124/2018 and we find this is a fit case to be remanded to the Commissioner (Appeals). The case is remanded to the Commissioner (Appeals) to decide the matter on merits following the ratio of Final Order No. A/31124/2018, after following principles of natural justice.

3. The appeal is allowed by way of remand to the first appellate authority.

(Operative part of this order was pronounced in the open court  
on conclusion of hearing)

**(P.VENKATA SUBBA RAO)**  
**MEMBER (TECHNICAL)**

**(M.V. RAVINDRAN)**  
**MEMBER (JUDICIAL)**

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