

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench-Court No – I**

Excise Appeal No. 731 of 2011

(Arising out of O-I-A No.75/2010 (V-I) CE dated 21.12.2010 passed by CCCE & ST
(Appeals), Visakhapatnam)

**Commissioner of Central Tax
Visakhapatnam - I**

Port Area, Visakhapatnam,
Andhra Pradesh – 530 035

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Appellant(s)

Vs

Coromandel Paints Ltd.

D.No.17/2010, Pendurthy,
Visakhapatnam, AP – 531 173

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Respondent(s)

Appearance

Shri C. Mallikarjun Reddy, AR for the Appellant
Shri C. Sumanth, Advocate for the Respondent.

**Coram: HON'BLE Mr. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

Date of Hearing: 08.03.2022
Date of Decision: 08.03.2022

FINAL ORDER No. A/30038/2022

[Order per: BENCH]

This appeal has been filed by Department assailing Order-in-Appeal No.75/2010 (V-I) CE dated 21.12.2010 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam, whereby, he allowed the Assessee's appeal and set aside the Order-in-Original with consequential relief to the Appellant.

2. After hearing both sides, we find that the learned Commissioner (Appeals) has passed this order relying on the order of this Tribunal reported at 2010 (260) ELT 440 (Tribunal-Bangalore). The appeal is filed by the Department on various grounds stating that the earlier order of this Tribunal has not attained finality as the same has been appealed against by the Department before the Hon'ble Supreme Court.

3. Learned Departmental Representative submits that the Department's Civil Appeal No. 5926 & 5927 of 2011 has been dismissed by the Hon'ble Supreme Court on 21.11.2019, in view of the low amount of tax involved,

leaving the question of law open. As the issue has already been decided by this Tribunal, we find no reason to take a different view in this matter, unless the order passed by this Tribunal has been set aside or modified by any superior judicial forum. We find that the learned Commissioner (Appeals) has correctly followed the judicial discipline and passed an order following the ratio of order of this Tribunal. In view of the above, the Department's appeal is dismissed.

(Dictated and pronounced in open Court)

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)