

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

Division Bench
Court – I

Excise Appeal No. 20674 of 2015

(Arising out of OIO No.106/2013 & 75/2014 HYD-1-Adjn. dt.26.11.2014 passed by
Commissioner of Central Excise, Customs & Service Tax, Hyderabad-I)

Rahee Track Technologies Pvt Ltd

IDA, Bollaram Village, Medak Dist.,
Telangana – 502 325

.....Appellant

VERSUS

**Commissioner of Central Tax,
Central Excise & Service Tax
Mechal – GST**

LB Stadium Road, Basheerbagh,
Hyderabad – 500 004

.....Respondent

Appearance

Shri T. Ankamma Rao, Advocate for the Appellant.
Shri A. Rangadham, AR for the Respondent.

Coram:

**HON'BLE MR. ANIL CHOUDHARY (JUDICIAL)
HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)**

FINAL ORDER No. A/30175/2023

Date of Hearing: 10.07.2023

Date of Decision: 10.07.2023

[Order per: ANIL CHOUDHARY]

Heard the parties. The issue involved is that the Appellant – Rahee Track Technologies Pvt Ltd., is a registered manufacturer engaged in manufacturing of Rail switches and Check rails falling under Tariff Heading 7302 90 90. Rail switch is a mechanism of rails by means of which a train switches over from one track to another track. A Check rail (guard rail) is a short piece of rail placed along the rail to ensure that the wheels follow the appropriate flangeway and the train does not derail. Rails (made of steel) are the principle raw material for the manufacture of these goods. Rails are supplied by Railways (Principal) free of cost. The Appellant is a job worker who converts the rails to products viz., Rail switches and Check rails and supplies them to Railways by raising their invoices for job work charges. As per Notification No. 05/2006-CE dated 01.03.2006, under S.No.30, the value of goods (viz., Railway or Tramway track, construction material of iron and steel – rail switches and check rails) shall be the value of goods excluding the value of rails, subject to the condition that no Cenvat credit of the duty paid on the rails is availed. Accordingly, the Appellant was all along paying Excise Duty on the job charges without including

the cost of rails. This Notification was superseded by Notification No. 12/2012-CE dated 17.03.2012, whereby the exclusion of the value of rails used for manufacture of good in question had been discontinued. Thus w.e.f. 17.03.2012, the Appellant became liable to pay duty on the goods manufactured including the value of rails received by them free of cost from the Principal. The Appellant as advised, that the matter on exemption is pending between the Ministry of Railways & the Ministry of Finance, accordingly, kept issuing invoices for job charges only without including the value of rails. The Revenue on finding that the Appellant has not included the value of rails, issued periodical SCNs for the period 17.03.2012 to 02.02.2014. The SCNs were adjudicated vide impugned OIO dated 26.11.2014 whereby the proposed demands were confirmed along with penalty and interest.

2. Learned Counsel for the Appellant submits that the Government of India have subsequently, vide Finance Bill/Act, 2015, has again amended modifying the Notification No. 12/2012-CE and have provided that the exemption is extended retrospectively for the period 17.03.2012 to 02.02.2014.

3. We find that the whole of the period in dispute is covered by the modification/amendment made vide Finance Act, 2015 by the Government of India. Accordingly, we hold that the issue no longer survives. Thus, we allow the Appeal and set aside the impugned Order. The Appellant is entitled to consequential benefits, in accordance with law.

(Dictated and pronounced in the Open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)