

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

Division Bench
Court – I

Service Tax Appeal No. 1296 of 2012

(Arising out of OIA No.74/2012 (H-IV) S.Tax dt.28.03.2012 passed by Commissioner of
Central Excise, Customs & Service Tax (Appeals-IV), Hyderabad)

Tibrewala Electromech Pvt Ltd

Plot No. 69 & 7, SVCIE, Balanagar,
Hyderabad – 500 037

.....Appellant

VERSUS

**Commissioner of Customs, Central
Excise & Service Tax, Hyderabad-IV**

Posnett Bhawan, Ramkoti,
Hyderabad, Telangana – 500 001

.....Respondent

Appearance

Shri C.S. Srinivas, Advocate for the Appellant.

Shri Chittaranjan Wagh Prakash, AR for the Respondent.

Coram:

HON'BLE MR. ANIL CHOUDHARY (JUDICIAL)

HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30183/2023

Date of Hearing: 12.07.2023

Date of Decision: 12.07.2023

[Order per: ANIL CHOUDHARY]

Heard the parties. The issue involved in this Appeal is whether the Appellant is liable to pay Service Tax under Reverse Charge Mechanism (RCM) on the allegation that they have received Goods Transport Agency (GTA) service.

2. Pursuant to audit, SCN dated 30.09.2010 was issued for the period 2005-06 to 2009-10 invoking extended period of limitation. Based on the figures of Balance Sheet wherein the Appellant had debited amount under the heading - Packaging and Forwarding expenses and sub-heading (i) Freight and Forwarding and (ii) Carriage Outward. An amount of Rs.1,41,230/- including Cess was demanded along with interest and further penalties were proposed.

3. In reply to SCN, the Appellant took a specific plea that Revenue has not lead any evidence that the Appellant has received the GTA service. Further categorically stated that they have received the service from individual truck owners, who were not GTA and further such transporters have not issued any consignment note. Hence, the service does not fall in the definition of GTA

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which is defined as – GTA means any commercial concern which provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

4. Heard the parties. Upon considering the facts and circumstances and upon perusing the records, we find that there is no finding to the contrary by the Adjudicating Authority that the service providers were Goods Transport Agents and have issued consignment note. In this view of the matter, we find that the demand is not maintainable.

5. Accordingly, the Appeal is allowed and the Impugned Order is set aside. The Appellant shall be entitled to consequential benefits in accordance with law.

(Dictated and pronounced in the Open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)