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

Division Bench

Court – I

Customs Appeal No. 20240 of 2015

(Arising out of Order-in-Appeal No.20-24/2014-V-II Cus dt.16.05.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

Aker Installation FP AS
Power Gas House, 117, Vidyanari Marg,
Kalina, Mumbai, Maharashtra – 400 098

......Appellant

VERSUS

Commissioner of Central Tax Vijayawada
Customs Commissionerate, Krishna Dist.,
Andhra Pradesh – 522 007

......Respondent

Appearance
Ms. Anushka Rastogi, Advocate (Proxy) for the Appellant.
Shri V. Srikant Rao, AR for the Respondent.

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

FINAL ORDER No. A/30003/2024

Date of Hearing: 05.01.2024
Date of Decision: 05.01.2024

[Order per: ANIL CHOUDHARY]

It is mentioned by the Counsel for the Appellant that this Appeal is fully covered by the Final Order of this Tribunal in the Appellant's own case being Final Order No. A/31582-31618/2017 dt.13.09.2017.

2. It is further mentioned that this Appeal also arises from the same common Impugned Order and hence, similar Order may be passed, whereby the Appeal was allowed in favour of the Appellants. The relevant portion of the Final Order is reproduced as follows:

> *"4. The counsel for appellants submit that main ground on which the department has denied the exemption that was claimed by the appellant is on the basis of the test memo by the chemical examiner who has opined that the sample has characteristics of LDO/HSD. It is the submission of the Counsel for appellant that an identical issue has been decided by the Tribunal in the case of CGG Marine Vs CC & CE, Visakhapatnam [2016-TIOL-1605-*

CESTAT-HYD] wherein relying upon the decision of the Tribunal in the case of M/s Transocean Discover 534 LLC [2015 (315) ELT 69 (Tri-Bang)] the Bench set aside all the orders and held in the favour of the appellants.

5. They produce a copy of the said decision of this Bench as well as the copy of the decision of Transcend Ocean Discover. On a specific query from the Bench as to whether any contrary decision is rendered by any Bench, both sides submit that there is no contrary view expressed as of today.

6. On perusal of the records and the decisions cited by the Counsel for appellant, we find that the issue is identical in all these appeals as was in those decisions. Since the issue has already attained finality in the hands of the Tribunal, we hold that the ratio is applicable in these cases also, accordingly following the said ratio we hold that all the impugned orders are unsustainable and liable to be set aside and are set aside.

7. The appeals are allowed with consequential reliefs, if any. As regards Department appeals mentioned at Sl.Nos. 2 and 3 of the table are also rejected as following the same ratio."

3. Accordingly, we allow this Appeal and set aside the Impugned Order, following the precedent Order of this Tribunal.

(Dictated and pronounced in the Open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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