CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Regional Bench - Court No. – I

Excise Appeal No. 27650 of 2013

(Arising out of Order-in-Appeal No.46/2013 (H-I) CE dt.13.05.2013 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals-I), Hyderabad)

MG Automotives Pvt Ltd
Maha Indraprastha Estate, NH-9, Zaheerabad,
Medak District, Telangana – 502 228 **......Appellant**

VERSUS

Commissioner of Central Tax
Medchal - GST
Kendriya Shulk Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004 **......Respondent**

Appearance:-

Shri Lalit Mohan Chandna, Advocate for the Appellant.
Shri V.R. Pavan Kumar, AR for the Respondent.

Coram: **HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30204/2025

Date of Hearing: 18.06.2025
Date of Decision: 18.06.2025

[Order per: A.K. JYOTISHI]

M/s MG Automotives Pvt Ltd (hereinafter referred to as the appellant) are in appeal against OIA dt.13.05.2013 passed by the Commissioner (Appeals) (impugned order), whereby, the OIO dt.31.12.2012 was upheld.

2. The issue, in brief, is that they are manufacturers of motor vehicles and were, inter alia, paying Central Excise duty. The case of the Department was that Notification No. 06/2006-CE dt.01.03.2006 exempted goods only from the duty of excise and not from the National Calamity Contingent Duty (NCCD). Therefore, based on this interpretation a SCN was issued demanding NCCD of Rs.3,28,563/-. This demand was confirmed by the Original Adjudicating Authority and on appeal, upheld by the Commissioner (Appeals) (impugned order).

3. Learned Advocate is submitting that they are not disputing the applicability of NCCD to their goods and they are not contesting the same. However, what they are contesting is invocation of extended period and

imposition of penalty. He points out that demand pertains to the period September, 2009 to May, 2011 and they were under bonafide belief that NCCD was not leviable on their goods in view of various clarifications issued by the Board as well as certain judgments in this regard. He is relying on the Circular No.60/1/2006-CX dt.13.01.2006 especially inviting the attention to Para 5. He further invites attention to the judgment of the Coordinate Bench in the case of Tatra Trucks India Ltd Vs CCE, Chennai [2008 (227) ELT 269 (Tri-Chennai)], wherein, the Tribunal, at Para 2, held that NCCD is not applicable when there is exemption notification exempting Central Excise duty. He is also relying on the judgment of Coordinate Bench in the case of Toyota Kirloskar Motor Pvt Ltd Vs CCE, Bangalore [2007 (217) ELT 403 (Tri-Bang)]. He further submits that they were under bonafide belief that they were not required to discharge NCCD due to existence of notification exemption Central Excise duty.

4. On the other hand, learned AR is pointing out that the Circular dt.13.01.2006 pertains only to export of goods and not in respect of other clearances and the contention of the appellant that they were under bonafide belief till 2011 because of different judgments and circular is not valid as there is an order of the Coordinate Bench of the Tribunal in 2007 itself in the case of CCE, Guntur Vs Virat Crane Industries Ltd [2007 (208) ELT 262 (Tri-Bang)] and there should not have been a bonafide belief for them to entertain an opinion that NCCD is not applicable. He further submits that department issued SCN and vide Para 4.1 to 4.5, it has been brought out that appellant had misdeclared the clearances of vehicles as 'Motor Vehicle (Direct)' instead of 'Motor Vehicle Ambulance' and only on verification, the appellants, vide their letter dt.09.12.2011 and 07.02.2012, submitted that they have misdeclared the clearance of goods. In view of the same, extended period is correctly invoked.

5. Heard both sides and perused the records.

6. The short issue is whether NCCD is exempted when there is an exemption notification exempting the goods from Central Excise duty or otherwise. We find that this issue is no longer in dispute that it will not be exempted merely because there is an exemption notification exempting goods from Central Excise duty. Therefore, as far as merit of the case is

concerned, NCCD was not exempted merely because an exemption notification exempting goods from Central Excise duty was in existence.

7. However, on the issue of limitation, we find that during the relevant period, there were contradictory views and judgments on this issue. While one set of judgments was of the view that NCCD is covered within the ambit of exemption notifications, whereas, another set of judgments was that NCCD is not exempted unless specific notification for exemption is issued for NCCD. During the relevant period, the Board was also compelled to issue certain clarification because of the confusion in the field as regards its exact interpretation whether NCCD is exempted or otherwise when there is only a notification exempting Central Excise duty or Rule deferring payment of Central Excise duty under certain situations. Therefore, clearly there was sufficient ground for interpretation and this cannot be held against the appellant that they followed what they felt was suitable to them. We find that in the factual matrix, the department had issued SCN by change of opinion once the judgment in 2011 was issued in the case of Hero Honda Motors Ltd Vs CCE, Meerut-I [2011 (273) ELT 89 (Tri-Del)], which held that NCCD is payable as no specific exemption is there.

8. Therefore, in the factual matrix, we do not find sufficient ground for invoking extended period and since entire demand has been issued beyond the normal period, the demand cannot be sustained on the grounds of limitation and the impugned order is liable to be set aside and is accordingly, set aside.

9. Appeal allowed with consequential relief, as per law.

(Dictated and pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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