CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Regional Bench - Court No. – I

Excise Appeal No. 26896 of 2013

(Arising out of Order-in-Appeal No.TTD-EXCUS-000-APP-015-12-13 dt.19.03.2013 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Guntur)

MM Cylinders (P) Ltd
B-18, Industrial Development Area, Renigunta,
Karvati Nagar Mandal, Chittoor Dist., AP – 517 520 **......Appellant**

VERSUS

Commissioner of Central Excise & Service Tax, Tirupati
9/86-A, Behind West Church Compound,
Amaravathi Nagar, MR Palli, Chittoor, AP – 517 502 **......Respondent**

Appearance:-
None for the Appellant.
Shri V. Srikanth Rao, AR for the Respondent.

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

FINAL ORDER No. A/30329/2025

Date of Hearing: 25.08.2025
Date of Decision: 25.08.2025

[Order per: R. MURALIDHAR]

Nobody appeared on behalf of the Appellant in spite of notice. Learned AR submits that the issue is in a narrow compass and is squarely covered in favour of the Revenue, in the case of the same Appellant for the past period. Therefore, we have taken up the Appeal itself for disposal.

2. Learned AR submits that for the period 27.08.2001 to October, 2010, periodical Show Cause Notices were issued, wherein the demands came to be confirmed by the Lower Authorities. On Appeal, this Bench, vide **Final Order No. 540-554/2011 dt.06.09.2011, has dismissed their Appeals**. On a similar issue, this Bench, in the case of **GDR Cylinders Pvt Ltd and Others Vs CCT, Tirupati-GST**, this Bench vide **Final Order No. A/30280-30283/2024 dated 20.02.2024** has dismissed the Appeals filed by the Appellant.

3. The present appeal arises in view of the periodical proceedings initiated for the period December, 2008 to August, 2011.

4. This Bench, vide Final Order No. 540-554/2011 dt.06.09.2011 has held as under :

> *"9.2 For considering the dispute involved, it is not necessary to go into the controversy as to whether SMT is a front company or a dummy unit or an independent legal entity. Undisputedly, substantial control of SMT was with the management of the appellant-companies. If the reasons given for charging higher rate by SMT for transport of the cylinders are to be taken as valid, no explanation is forthcoming for sudden dropping of the freight amount from July 2005 onwards. If the transaction between SMT and the appellant-companies were in the normal course of business, there is no justification forthcoming for reducing the freight amount for transport to Gummidipoondi from Rs. 115.96 during April 2005 to Rs. 24.46 during July 2005 to March 2006; similarly there is no explanation forthcoming for reducing the freight charges from Rs. 148.61 in 2004-05 to 27.08 during 2006-07. Similarly no explanation is forthcoming for such sudden variation in respect of other destination.*
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> *9.3 It is also noticed that the appellant-companies have utilized the services of other transport companies on many occasions. In all these occasions, the transport has been arranged only through SMT. However, the charges paid to SMT for using third party transport and the actual charges paid by SMT to such third party transport have interesting revelations. For transport of 560 cylinders to 24 Paraganas of West Bengal in January 2005, the freight charges claimed as deduction in invoice to the oil company was Rs. 1,17,403/- as against an amount of Rs. 33000/- only paid to the actual transporter and thus an increase of more than 250%. Similarly, in respect of despatch of 298 Nos. cylinders to Jharkand the freight claimed was Rs. 62,774/- whereas the payment paid to the actual transporter was Rs. 21,000/- only. Thus nearly a 200% increase. Several such instances have been discussed in para 10.8 of the impugned order.*
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> *It does not make sense that the appellant-companies who were claiming their business transactions with SMT as if in the normal course of business, could afford to pay amounts of freight in excess ranging from 69% to 258% as detailed in para 10.8. It would have been advisable that*

they have used third party transporter and saved lots of money if they were to do business in the normal course.

9.4 Without going to the controversy as to whether SMT is a dummy or front unit, it is clear that the appellant-companies have clearly used SMT to claim inflated freight charges and consequently to reduce the assessable value and the same have happened in spite of substantial increase in prices of major inputs, namely HR sheets as already discussed. In such a scenario, the case laws relied by them have no application to the facts of their cases."

5. It is also noted in the Final Order in the case of GDR Cylinders Pvt Ltd, cited supra, that the Appeal filed by MM Cylinders Pvt Ltd before the Hon'ble Supreme Court was dismissed. The relevant para is cited below :

"8. Further urges that MM Cylinders had appealed before Hon'ble Supreme Court and the same was dismissed by the Apex Court at the admission stage itself and the issue is settled in favour of the Revenue and against the assesse."

6. We observe that the issues stands squarely covered against the appellant in view of the cited case law in respect of the proceedings initiated for the past period. Respectfully following the above decisions, we dismiss the present Appeal filed by the Appellant.

(Dictated and pronounced in the Open Court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

Veda