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

Division Bench – Court No. – I

Excise Appeal No. 2616 of 2012

(Arising out of Order-in-Original No. 40/2012 (RS) dt.05.06.2012 passed by Commissioner of Central Excise & Customs, Visakhapatnam-II)

M/s Venkay Engineering Works
Plot No.174, IDA Ramanaiahpeta,
Kakinada, Andhra Pradesh
……Appellant

VERSUS

Commissioner of Central Tax
Visakhapatnam - II
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035
……Respondent

Appearance
Shri Y. Sreenivasa Reddy, Advocate for the Appellant.
Shri M. Anukathir Surya, AR for the Respondent.

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

FINAL ORDER No. A/30401/2025

Date of Hearing: 02.07.2025
Date of Decision: 10.10.2025

[Order per: A.K. JYOTISHI]

M/s Venkay Engineering Works (hereinafter referred to as Appellant) are in appeal against the Order-in-Original dt.05.06.2012, whereby, the adjudicating authority has confirmed the demand of Excise Duty amounting to Rs.87,71,656/- under proviso to section 11A of the Central Excise Act along with interest and has also imposed equal penalty (impugned order).

2. The case of the department is that the appellants were engaged in fabrication of iron and steel articles like cargo baskets, chemical racks, cutting tanks, casing racks, mud pads, etc., and were having a turnover of about Rs.4.60 crores during 2007-08 and Rs.2.68 crores in 2008-09 and despite that they had not taken any Central Excise registration. Subsequent investigation revealed that they were engaged in various types of fabrication using MS plates, sheets, bars, etc., and therefore, clearly the resulting goods were manufactured goods and liable to Central Excise duty. Further, the appellants submitted that these manufactured goods were meant for supply to firms/companies engaged in the oil exploration activity like M/s Reliance Industries Ltd (RIL) in the KG basin and therefore, exempted in terms of Notification No.21/2002-Cus dt.01.03.2002 and Notification No.6/2006-CE dt.01.03.2006. It was also submitted that they had obtained project authority certificates from their customers to the effect that the said goods were required in connection with petroleum operations undertaken under petroleum exploration licenses or mining leases obtained/allotted under International Competitive Bidding (ICB). The department felt that the goods were not supplied to projects allotted through ICB route and relied on the fact that the judgment in the case of CST Ltd Vs CCE, Hyderabad [2007 (217) ELT 513 (Tri-Bang)] relied by the appellant was still pending finalization.

3. On adjudication, the adjudicating authority examined their contention. Para 16 of the impugned order is cited below for ease of reference.

> *"16. In the present case there is no dispute with regard to the exemption under the Customs Act when the specified goods are imported into India which is a condition to be fulfilled for availing the exemption. The issue is with regard to basic eligibility with reference to the description of excisable goods as mentioned in the exemption notification. There is a large difference between 'Goods supplied against International Competitive Bidding' and 'Goods supplied for use in the projects procured under International Competitive Bidding'. Coming to the facts in the present case, it is seen from the project authority certificates issued by M/s RIL that M/s RIL, being a firm involved in oil exploration have been awarded the blocks in Krishna – Godavari (KG) basin by Government of India through the process of ICB. Thus the referred ICB in the present case is limited for purpose of licensing or giving out the exploration/mining on lease the concerned blocks and the said blocks were awarded to M/s RIL for further exploration on their own, with the benefits and risks involved, after payment of the license fee quoted in the ICB process. Even the assessee in their reply agrees that the ICB process involved is for award of the blocks involving licensing/lease of such blocks. Thus though the block was licensed/leased to M/s RIL, through ICB process, the oil exploration carried out at the*

said blocks by M/s RIL, which is activity consequent to such licensing/leasing, is on their own account and it cannot be said that M/s RIL are carrying out the oil exploration for another person under a contract/project/work/activity awarded against ICB by such person. The project authority certificates issued by M/s RIL are with reference to and under the provisions of Foreign Trade Policy in connection with petroleum operations undertaken by them and do not state that the goods supplied by the assessee to M/s RIL are used as supplies against ICB. Neither the assessees have been awarded the supply order through ICB process nor M/s RIL have used these goods in a work/activity being carried out by them under the ICB process."

4. It can be seen that the adjudicating authority has considered that the project authority certificates issued by M/s RIL is with reference and under provisions of FTP in connection with petroleum operations undertaken by them and do not state that the goods supplied by the appellants to M/s RIL are used as supplies against ICB and also the fact that the work has not been directly awarded under ICB to the appellants themselves but to M/s RIL.

5. Learned Advocate has mainly contested the impugned order on the following two grounds:

a) The decision in the case of CST ltd by the Tribunal holding that a sub-contractor who supplied the goods to the contractor who is executing the work under ICB is also eligible is appealed against before the Hon'ble High Court and it is pending in the Court and the issue has not reached finality.

b) The appellants failed to submit proof that the goods are supplied against ICB.

6. Insofar as the first issue (a) is concerned, the appeal has been withdrawn by the Revenue as reported in [2016 (339) ELT A151 (AP)]. Therefore, the decision in the case of CST Ltd holding that a sub-contractor who supplied the goods to the contractor who is executing work under ICB is also eligible for the exemption stands in their favour. He has also relied on Board Circular dt.10.07.2014, wherein, it was clarified that exemptions are also available to sub-contractor for manufacture and supply of goods for or on behalf of the main contractor, who has won the bid for the project through ICB route for the execution of the said project.

7. On the issue (b) above, learned Advocate submitted that the impugned goods manufactured by them are specifically manufactured and supplied only for petroleum operations and all the four companies to whom the supplies were made have obtained the contract of drilling and production of petroleum through ICB route as per the clarification issued by the Director General of Hydrocarbons clarifying that all the companies to whom the oil/gas blocks were allotted were only through ICB and not the operation of oil field. Moreover, department never asked for any proof at the time of investigation in support that these companies were allotted only the blocks under ICB. He has also submitted that the impugned order itself accepts that there is no dispute with regard to the exemption under the Customs Act, where the specified goods are exempted when imported into India, which is a condition to be fulfilled for availing exemptions and the fact that the goods which are supplied by the appellants are figured at serial number 5, 9, 21 & 24 of the list 12 to the Notification No.21/2002-Cus dt.01.03.2002. Therefore, when the additional duty of Customs imposed under section 3 is exempted, the excise duty can also not be levied when the said good is supplied in India for the said purpose. He has relied on the judgment in the case of Hyderabad Industries Ltd Vs UOI [1999 (108) ELT 321 (SC)] and Aidek Tourism Services Pvt Ltd Vs CC, New Delhi [2015 (318) ELT 3 S(C)]. Moreover, as per para 8.2(f) of FTP, supply of goods to any project or purpose in respect of which the Ministry of Finance, by notification permits imports of such goods at zero customs duty or treated as deemed exports would also support their submission. Therefore, Notification No.6/2006 is clearly available to them especially when there is no such condition requiring submission of any document to claim the said exemption. Further, demand is also hit by time bar.

8. On the other hand, learned AR, apart from reiterating the findings of the adjudicating authority, has mainly submitted that the notification should be construed strictly and it is for the appellant to prove that they are entitled for the said exemption notification.

9. Heard both sides and perused the records.

10. Essentially, we find that the core issue in this appeal is that the appellants, who have admittedly manufactured excisable goods liable to Central Excise duty, are entitled for exemption notification 06/2006-CE or

otherwise in the given factual matrix. From the grounds taken in the SCN, we find that essentially the department felt that they have not supplied any goods/order directly to project awarded under ICB route and therefore, not entitled for the benefit. However, we find that in view of the submissions made by the learned Advocate, it is clearly a case where they have provided goods to the companies for the purpose of use in the project, which were awarded to those companies under ICB route only. The department also relied on the fact that they had failed to prove that goods were supplied against ICB. The adjudicating authority has tried to distinguish this by holding that the block was licensed/leased to M/s RIL through ICB process, however, the oil exploration carried out at the said blocks by M/s RIL was on their own account and it cannot be said that the said activity was carried out by M/s RIL for another person under a contract/project/work/activity awarded against ICB by such person. The adjudicating authority has also discarded the project authority certificate issued by M/s RIL on the grounds that it has been issued under FTP in connection with petroleum operations undertaken by them and it does not state that the goods supplied by the appellant to M/s RIL are used as supplies against ICB and came to the conclusion, inter alia, that M/s RIL have not used these goods in a work/ activity relating to contract awarded through ICB.

11. We have gone through the sample copies of purchase orders and we find that the purchase orders issued by M/s RIL (operator) places order for fabrication of float shoe, etc., where the terms and conditions clearly provide that there is no excise duty applicable on the items for which the order is being placed by M/s RIL. We have also perused the project authority certificate issued by M/s RIL (operator), wherein, inter alia, it has been certified that the goods supplied by the appellant are required in connection with petroleum operations undertaken under petroleum exploration license or mining lease under ICB.

(81)

Reliance
Industries Limited (Operator)

C/O Relene Petrochemicals Ltd, Reliance Corporate Park, Building No. 8, Ground Floor, B Wing, Ghansoli,Thane Belapur Road,Navi Mumbai-400 701
Tel: +91 22 44782552 / 44780167

PAC/O&G/09-10/12/02

APPENDIX - 27

PROJECT AUTHORITY CERTIFICATE

NOTE: PLEASE SEE PARAGRAPH 4.1.3 OF THE POLICY AND PARAGRAPH 8.2.4 OF THIS HANDBOOK

I, Biranchi Mallik, Senior Manager (Finance & Accounts) of Reliance Industries Limited (Operator),duly authorized to issue the Project Authority Certificate, hereby certify that M/s. Venkay Engineering Works (Industrial Estate Plot No.174, Ramanayya Peta, Kakinada, Andhra Pradesh, 533 005, India) have been awarded a contract for supply of goods of value, quantity and description mentioned below for Total Value Rs.21,700,000/- (Rupees Two Crore Seventeen Lakh Only) against Purchase Order No O33/7221645 dated 29th December 2009.

It is certified:-

d. That supply of goods required in connection with petroleum operations undertaken under petroleum exploration licenses or mining leases under International Competitive Bidding is made in accordance with the provisions of paragraph 8.2(f) and 8.4.4(iii) of the Policy and the Import content of the order is NIL. I CB

It is further certified that the Purchase Order No.O33/7221645 dated 29th December 2009 in respect of Blocks KG-DWN-98/3 (KG-D6),KG-DWN-2001/1 (KG-III-D9), KG-DWN-2003/1(KG-V-D3), MN-DWN-2003/1(MN-V-D4), CY-DWN-2001/2 (CY-III-D5) project has been awarded to M/s. Venkay Engineering Works (Industrial Estate Plot No.174, Ramanayya Peta, Kakinada, Andhra Pradesh, 533 005, India) as the Indian main contractor. It is further certified that the payment in respect of the goods to be supplied by the contractor will be made directly by us in Indian Rupees.

PARTICULARS OF SUPPLIES TO BE MADE
(a) By the main contractor

Sl. No.	DESCRIPTION OF ITEM TO BE SUPPLIED	QUANTITY
1	Mud Mat W/ Accessories With J-Slot	9 Nos
2	Mud Mat W/ Accessories Without J-Slot	5 Nos

It is also certified that no other similar certificate to any other party has been granted for the same supplies detailed above, under the same contract referred to above.

Signature: [signature]

Name and Designation: Biranchi Mallik (Senior Manager)

Name of the Project: KG-DWN-98/3 (KG D6),
KG-DWN-2001/1 (KG-III-D9),
KG-DWN-2003/1 (KG-V-D3),
MN-DWN-2003/1 (MN-V-D4)

Place: Mumbai

Date: 31st December 2009.

Seal: **Reliance Industries Limited (Operator)**
C/o Relene Petrochemicals Limited
Reliance Corporate Park,
Building No. 8, B Wing, Ground Floor,
Thane Belapur Road, Ghansoli,
Navi Mumbai - 400701.

For VENKAY ENGINEERING WORKS
K. Koti Swara
Managing Partner

(27)

12. On going through the same, we do not find that the findings has correctly analysed the project authority certificate. On the other hand, we find that it primarily indicates that the appellants were integrally connected with work relating to petroleum operations. To draw a line between the exploration of oil field and petroleum operation thereon is not born out of correct appreciation of the wordings nor there is any other evidence adduced by the department that these were not used in any manner, whatsoever, by the entity who were engaged in work relating to exploration or operation of oil fields awarded under ICB route. We also find force on the reliance placed by the appellant on letter dt.26.08.2013, which the appellant received from the Director General of Hydrocarbons pursuant to RTI application filed. As per this information, it was, inter alia, clarified that awards of blocks are made through the ICB and it also invited attention to certain public information available on their website. Therefore, there is no doubt that companies were allotted oil and gas blocks only through ICB in terms of New Exploration License Policy (NELP).

13. We have also perused the Expression of Interest (EOI) (RIL/E&P/EOI/2007/07), which has been issued by M/s RIL where it has been clearly mentioned that the said EOI inviting interest under ICB for supply of certain equipment, materials and related services for exploratory drilling. In the said EOI, M/s RIL has declared themselves as ‘operator’ and on their behalf as well as on behalf of other partners like NIKO (NECO) Ltd, ONGC Ltd, etc., inviting EOI for certain blocks, which were acquired under NELP1, NELP2, etc. Thus, it is obvious that M/s RIL as operator, has placed order on the appellant and therefore, supply of the material pursuant thereto to the activity allotted to them through ICB by the Government. Therefore, once the supply has been made pursuant to purchase order issued by M/s RIL as operator, it would be obvious that the supplies are in relation to project, which has been awarded under ICB. If the department had any doubt on this aspect, they could have made enquiries from the supplier, who had placed such purchase order on the appellant, wherein, they had also clearly mentioned that there is no excise duty leviable on the said activities, presumably on the fact that they were getting these materials for the project, which has been awarded through ICB route and hence exempted. Therefore, in the facts of the case, we find that there is no dispute that appellant as sub-contractor is also eligible to supply materials

towards project allotted under ICB, as clarified by Board vide circular dt.10.07.2014 and the case laws cited, supra, by the appellant. We also find that the documents adduced by the appellant were sufficient enough to indicate that these materials were intended for use only in connection with the activity for which the work was awarded through ICB route to M/s RIL as operator. Therefore, we find that the appellants are entitled for the benefit of notification claimed by them for non-payment of Central Excise duty.

14. Since on merits itself the impugned order is not sustainable, we have not examined the issue from the angle of limitation.

15. Appeal allowed.

(Pronounced in the Open Court on 10.10.2025)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Veda