

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

REGIONAL BENCH - COURT NO. - I

Excise Appeal No. 20529 of 2014

(Arising out of **Order-in-Appeal** No.113/2013 (H-IV) CE dated 31.10.2013 passed by
Commissioner of Customs, Central Excise & Service Tax (Appeals-II), Hyderabad)

M/s Polmor Steels Pvt Ltd., .. **APPELLANT**

Survey No. 689,
Sai Geetha Ashram Road,
Devar Yamjal Village,
Shameerpet Mandal,
Ranga Reddy District,
Telangana - 500 014.

VERSUS

Commissioner Of Central Tax .. **RESPONDENT**

Medchal - GST

Posnett Bhawan,
Tilak Road, Ramkoti,
Hyderabad,
Telangana - 500 001.

APPEARANCE:

Shri M.V.S. Prasad, Advocate for the Appellant.

Shri K. Sreenivasa Reddy, Authorized Representative for the Respondent.

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

FINAL ORDER No. A/30511/2025

Date of Hearing: 25.07.2025

Date of Decision: 21.11.2025

[ORDER PER: ANGAD PRASAD]

M/s Polmor Steels Pvt Ltd., (hereinafter referred to as appellant) are in appeal against the order of the Commissioner (Appeals-II), Hyderabad, whereby he has upheld the order passed by the original Adjudicating Authority.

2. The issue in brief, the appellant manufactured side pillars and door pillars under job work and cleared the same to M/s Bombardier (raw material supplier) without payment of Central Excise duty. M/s Bombardier, filed declaration in office of the Assistant Commissioner, Vaddodara under Notification No 214/86 CE dated 25.03.1986, the copy of the same was endorsed to Jurisdiction Assistant Commissioner of the appellant. Wherein they

declared that the goods received from the appellant were used in their Savil factory for manufacture of final products. The Lower Authority held that M/s Bombardier has not disclosed the process involved in the job work to the Central Excise Department, with a view to evade duty of excise as they were aware that the process carried out in job work amounts to manufacture and duty is payable on the goods.

3. The Learned Counsel for the appellant submit that the door pillars/side pillars manufactured by the appellant are not finished goods capable of being marketed. In fact, they were subjected to further manufacturing process by Bombardier for supply to Delhi Metro. The raw material supplied by Bombardier on job work challan does not belong to the appellant. The processed material/goods also do not belong to the appellant. Appellant received only job work charges from Bombardier.

4. Learned Counsel for the appellant submit that the goods manufactured by the appellant falling under chapter heading no. 86079910 are not listed in first or second schedule of CETA 1985 & hence, they can't be called as goods.

5. Learned Counsel for the appellant submits that although the process in the hands of the appellant satisfies the definition of 'manufacture', it doesn't mean that the goods manufactured in the said process are excisable goods. There is no provision saying that if the final product is exempt, the raw material has to pay the duty.

6. Learned Counsel for the appellant also submits that there is no evidence that any material fact has been suppressed, therefore, demand is time barred.

7. Learned Counsel for the appellant submits that the coach pillars although manufactured goods, are not marketable. The twin tests of 'Manufacture' and 'Marketability' to determine taxability of processed goods are not satisfied. The

duty liability under notification no. 214/86 of CETA, 1986 is not on the job worker. Even if the final products are exempt, jobworker need not pay duty under aforesaid notification.

8. Learned Counsel for the appellant relied on following decisions:

i) Aggarwal Rolling Mills Vs Commissioner of Central Excise, New Delhi [1997 (93) E.L.T. 615 (Tribunal)]

ii) Kay Cee Electricals Vs Commissioner of Central Excise, New Delhi [2005 (182) E.L.T. 136 (Tri-Del)]

iii) Kanohar Electricals Ltd., Vs Commissioner of Central Excise, Meerut [2005 (180) E.L.T. 129 (Tri-Del)]

9. Learned Representative of the Department submits that the door pillars manufactured by the appellant for use in the coaches are well known commercial commodity and their marketability is firmly established. Further, the definition of the term, 'excisable goods' under Section 2 (d) of the Central Excise Act, 1944, was amended in year 2008, to do away with the requirement of 'marketability' by insertion of the following Explanation in the said definition.

"Explanation- For the purposes of this clause, "goods" includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable."

10. Therefore, the demand of duty as raised is sustainable and the duty demanded is recoverable under provisions of Section 11A of the Central Excise Act, 1944 along with applicable interest and penalty under Section 11AC.

11. Heard Learned Counsel for the appellant Shri M.V.S. Prasad and Learned Representative of Department Shri K. Sreenivasa Reddy and perused the records with their submissions.

12. The appellant had received raw material namely stainless steel sheets on job work challan and had been manufacturing door pillars which are part of railway coaches being manufactured by M/s Bombardier for Delhi Metro. The

appellant did such work in respect of material sent by Bombardier. The goods manufactured on job work (coach pillars) are not marketable and thus not dutiable.

The "Excisable goods" defined under Section 2 (d) of Central Excise Act 1944 as thus:

"excisable goods" means goods specified in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 as being subject to a duty of excise and includes salt;

Explanation-For the purposes of this clause, "goods" includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.

13. But in the instant case, the 'door pillars' manufactured on job work are not capable of being bought and sold. They are manufactured on Job work to required specifications relevant to the design of the coach. These side pillars have no independent marketability, pillars are parts of Metro Train Coaches (lubricated as per drawings and specifications provided) and appellant received only job work charges and not sale consideration.

14. In the case of Alomeco India Extrusion Ltd., Vs Commissioner of Central Excise, Hyderabad [2010 (249) E.L.T. 577 (Tri-Bang) which was decided by CESTAT Bangalore, facts are same. In that case appellant no. 1 was a job worker of appellant no. 2. It was decided that job worker is not liable to pay duty.

15. The appellant placed on record decision of Kay Cee Electricals, Supra, Tribunal Delhi holding as follows:

(5) "admittedly, the appellants, as job worker, received the raw material from the supplier under Notification No. 214/86 read with Rule 57AC. The supplier under the said notification furnished an undertaking to the department that the duty liability in respect of the finished goods received from the appellants after the job work, would be discharged by him. Therefore, the appellants could not be treated as a manufacturer for the purpose of payment of excise duty. The duty liability was of the supplier of the

raw material. There is nothing on the record to suggest if the supplier of raw material has denied the receipt of the goods after the job work from the appellants. Therefore, the appellants could not be saddled with the duty demand.

(6) Apart from this, there is no tangible evidence to prove the shortage of the finished goods in the factory premises of the appellants. The perusal of the panchnama which was prepared at the spot shows that at the relevant time when the officers visited their factory, the balance recorded in the RG.I register was nil and this balance was not at variance on physical verification. Even if it is taken that the RG.I was maintained by the appellants in respect of their other goods manufactured by them on their own account, still no inference could be drawn that there was shortage of raw material/finished goods when the supplier of the raw material has not accepted the non receipt of the finished goods from the appellants manufactured out of raw material supplied. The ratio of law laid down in the ORG Systems Vs CCE Vadodara [1998 (102) E.L.T. 3] referred by the SDR wherein it has been held that job worker is to be treated as manufacturer, is not attracted to the present case as raw material in the present case was received only under the notification detailed above under which the supplier of the raw material had furnished an undertaking to discharge the duty liability”.

16. Appellant has also placed reliance on Kanohar Electricals Ltd., Supra, decided by Tribunal Delhi holding as follows:

(5) “We have considered the submissions of both the sides. It is an admitted fact that the appellants have sent TOBS to their job worker for manufacture of transformer oil under Notification No. 214/86-C.E. The said Notification exempts specified goods manufactured in a factory as a job worker from the whole of the duty of excise leviable thereon subject to the conditions stipulated in the notification. One of the conditions is that the supplier of raw material gives an undertaking to the Assistant Commissioner having jurisdiction over the factory of the job worker that the said goods shall be (a) used in or in relation to the manufacture of the final products in his factory; or (b) removed on payment of duty for home consumption from his factory. In the present matter the Appellants have furnished an undertaking as stipulated in the Notification. Further, they have used the transformer oil for repair of the old and used transformers and as such have removed the transformer oil for home consumption instead of using the same in or in relation to the manufacture of the final products in their factory. The Notification permits them to remove the Impugned goods for home consumption but “on payment of duty” which they have not done. Accordingly duty is payable by them and has been rightly demanded from them. There is no force in their

submission that the duty should have been demanded from job worker who has actually manufactured the goods since they are working under Notification No. 214/86-C.E. and are governed by the conditions mentioned in the Notification. Once they remove the goods for home consumption after receiving the same from job worker, the liability to pay duty of excise is on them. Consequently the jurisdiction to demand duty by issuing show cause notice is to be exercised by the Proper Officer who is having the jurisdiction over the factory of the Appellants. The decision in the case of Span Hear Transfer Equipment Mfrs. Pvt. Ltd., is not applicable as the facts are entirely different. The issue involved therein was whether the goods cleared within the value of Rs. 30 lakhs for the purpose of Notification No. 1/93 would be entitled to the benefit of Notification No. 214/86”.

17. Therefore, Notification No. 214/86 CE is applicable to the products manufacture of final products. The material supplier had given declaration under said notification and violates the condition of declaration, duty liability will be on the raw material supplier not the job worker.

18. Since, no any liability on appellant to pay excise duty, therefore, no any suppression of material fact.

19. Thus, in view of discussions, supra, and following the ratio laid down by coordinate benches, we find that the demand is not sustainable on merit as well as on limitation, the imposition of penalty will also not sustain. Therefore, in view of the same the impugned order is liable to be set aside.

20. Appeal allowed with consequential benefit if any as per law.

(Pronounced in open court on 21.11.2025)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)