IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 76133 of 2015

(Arising out of Order-in-Original No.COMMR/B-I/ST-01-04/2013 dated 29.10.2013 passed by Commissioner of Central Excise, Customs & Service Tax, Bhubaneshwar)

Hindustan Aeronautics Limited, **: Appellant**
Engine Division, Koraput, PO.Sunabeda-763002, Dist.-Koraput,
Odisha.

VERSUS

The Commissioner of Central Excise, Customs and Service Tax, Odisha **: Respondent**
C.R.Buildign, Rajaswa Vihar, Bhubaneshwar-751007,
Odisha.

APPEARANCE:

Mr. Ashwini Chandrasekaran, Advocate for the Appellant

Shri R.K.Agarwal, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76433/ 2025

DATE OF HEARING :29.04.2025

DATE OF DECISION:29.04.2025

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order wherein demand of Service Tax has been raised against the appellant under the category of management, maintenance and repair services from the period July, 2003 to June, 2005.

2. The facts of the case are that appellant being a PSU is under the control and supervision of Ministry of Defence and engaged in manufacture, repair and overhaul of aircraft engines for aircrafts operated by Indian Airforce, Indian Navy etc. For undertaking the work, Approved prices is shared by the Ministry of Defence which inter alia contains the methodology/parameters for determining the price of

the work. Basis this, Fixed Price quotation/Price catalogue ("FPQ") is determined. The invoice is raised based on this Fixed Price Quotation.

3. On the basis of this investigation, four show cause notices were issued to the appellant to demand Service Tax during the period 1st July, 2003 to 30.09.2005 under the category of maintenance or repair services. The appellant approached to the Ministry of Defence to seek Service Tax exemption on the services rendered by the appellant which was denied by the Ministry of Finance, therefore, the appellant suo moto paid the tax due for the said period and intimated to the Revenue. The impugned order has been passed wherein it has been held that appellant was engaged in providing repair and overhauling work which amounts to maintenance for repair works and as appellant has not submitted documentary evidence for showing actual value of service rendered therefore, confirmed whole of the demand.

4. Against the said order appellant is before us.

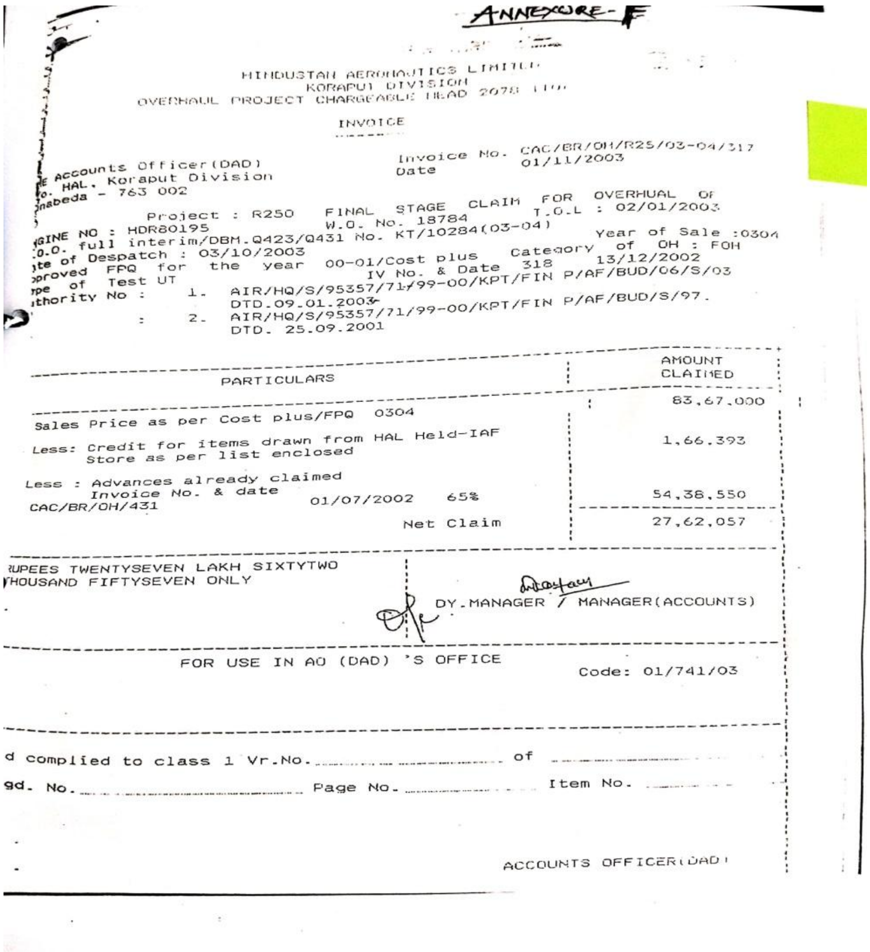
5. The Ld. Counsel appearing on behalf of the appellant submits that although appellant was engaged in the activity of maintenance and repair of the aircrafts but invoices raised by the appellant having bifurcation and supply of parts and the certain portion of service rendered by the appellant. Therefore, in terms of notification no. 12/2003/ST dated 20th June, 2003 which exempts the value of material sold by the service provider during the course of maintenance service. If the said amount is reduced from the taxable value of service then nothing is payable by the appellant. Therefore, the Ld. Adjudicating Authority has not appreciated the

facts to demand Service Tax from the appellant. To support his contention he relied on the decision in their own case reported in 2019 (22) GSTL 53 (Tri.-Bom), 2010(17) S.T.R. 249 (Tri.-Bang), 2014 (34) S.T.R. 874 (Tri.-Bang) . Therefore, he prayed that impugned order is to be set aside.

6. On the other hand the Ld. Authorized Representative supported the impugned order.

7. Heard the parties. Considered the submissions.

8. We find that the facts are not in dispute that appellant is providing repairs and maintenance services but in this case Service Tax has been demanded from the gross amount received by the appellant for providing the said services. Infact, the service tax is payable on the service rendered by the appellant not on the cost of the parts which were used in providing the said service and as per the invoices raised by the appellant the value of parts sold and service portion are shown separately. For better appreciation of the facts some of the invoices are reproduced as under:



ANNEXURE- F

HINDUSTAN AERONAUTICS LIMITED
KORAPUT DIVISION
OVERHAUL PROJECT CHARGEABLE HEAD 2078 [illegible]

INVOICE

e Accounts Officer(DAD)
o. HAL. Koraput Division
nabeda - 763 002

Invoice No. CAC/BR/OH/R25/03-04/317
Date 01/11/2003

Project : R250 FINAL STAGE CLAIM FOR OVERHUAL OF T.O.L : 02/01/2003
W.O. No. 18784

GINE NO : HDR80195
.O. full interim/DBM.Q423/Q431 No. KT/10284(03-04) Year of Sale :0304
te of Despatch : 03/10/2003 Category of OH : FOH
proved FPQ for the year 00-01/Cost plus 13/12/2002
IV No. & Date 318
pe of Test UT
thority No : 1. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/06/S/03
DTD.09.01.2003
: 2. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/S/97.
DTD. 25.09.2001

PARTICULARS	AMOUNT CLAIMED
Sales Price as per Cost plus/FPQ 0304	83,67,000
Less: Credit for items drawn from HAL Held-IAF Store as per list enclosed	1,66,393
Less : Advances already claimed Invoice No. & date CAC/BR/OH/431 01/07/2002 65%	54,38,550
Net Claim	27,62,057

UPEES TWENTYSEVEN LAKH SIXTYTWO
HOUSAND FIFTYSEVEN ONLY

DY.MANAGER / MANAGER(ACCOUNTS)

FOR USE IN AO (DAD) 'S OFFICE

Code: 01/741/03

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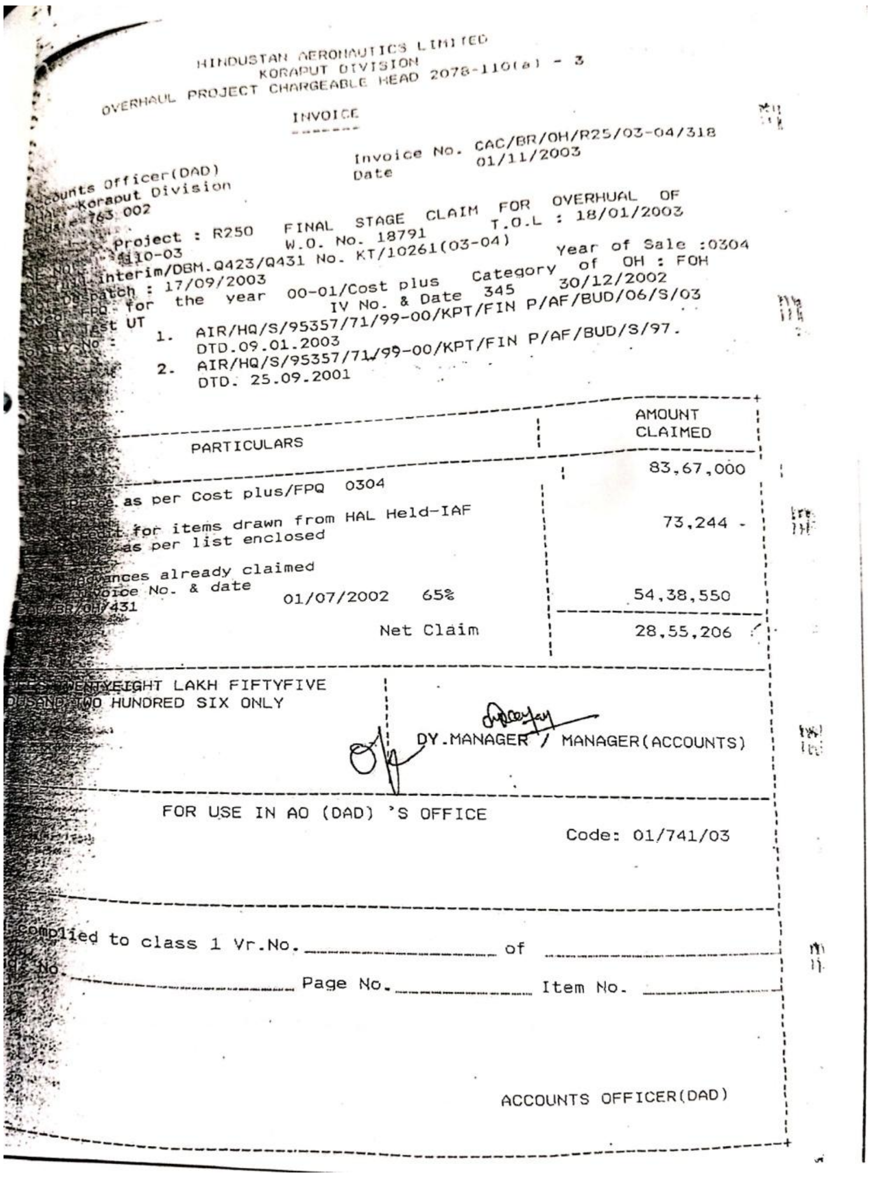
gd. No.................... Page No.................... Item No. ....

ACCOUNTS OFFICER(DAD)



HINDUSTAN AERONAUTICS LIMITED
KORAPUT DIVISION
OVERHAUL PROJECT CHARGEABLE HEAD 2078-110(a) - 3

INVOICE

Invoice No. CAC/BR/OH/R25/03-04/318
Date 01/11/2003

ounts Officer(DAD)
Koraput Division
763 002

Project : R250 FINAL STAGE CLAIM FOR OVERHUAL OF
T.O.L : 18/01/2003
W.O. No. 18791
110-03
interim/DBM.Q423/Q431 No. KT/10261(03-04)
Year of Sale :0304
Category of OH : FOH
patch : 17/09/2003
FPQ for the year 00-01/Cost plus
IV No. & Date 345 30/12/2002
Test UT
1. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/06/S/03
DTD.09.01.2003
2. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/S/97.
DTD. 25.09.2001

PARTICULARS	AMOUNT CLAIMED
ce as per Cost plus/FPQ 0304	83,67,000
t for items drawn from HAL Held-IAF e as per list enclosed	73,244 -
ances already claimed voice No. & date 01/07/2002 65% /431	54,38,550
Net Claim	28,55,206

ENTYEIGHT LAKH FIFTYFIVE
USAND TWO HUNDRED SIX ONLY

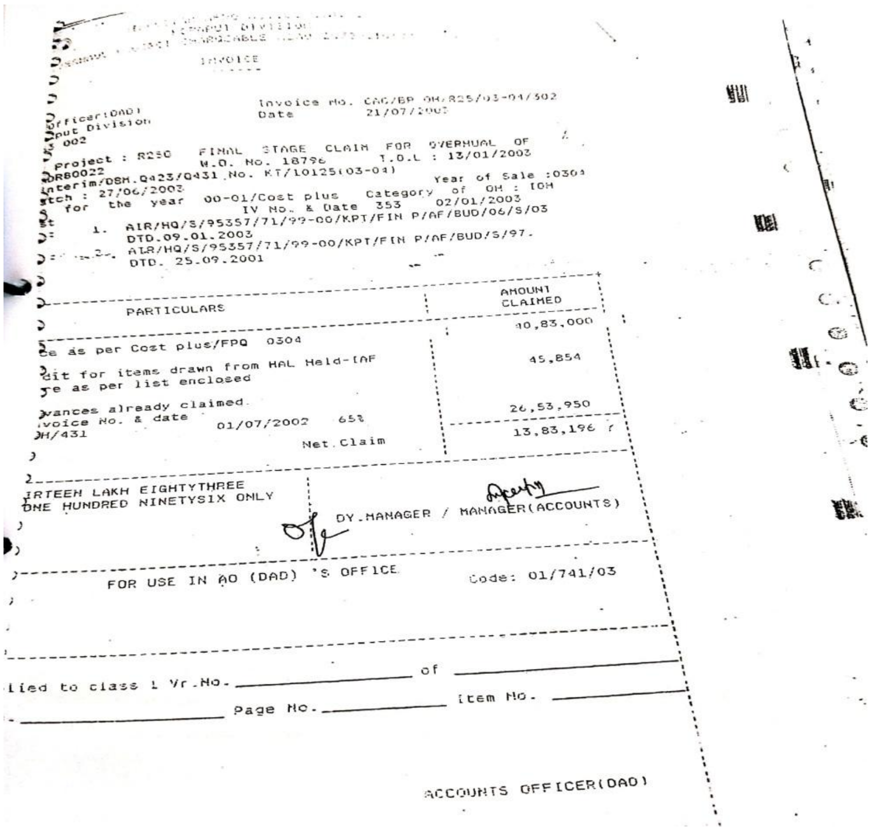
DY.MANAGER / MANAGER(ACCOUNTS)

FOR USE IN AO (DAD) 'S OFFICE

Code: 01/741/03

Complied to class 1 Vr.No. ____________ of ____________
No ____________ Page No. ____________ Item No. ____________

ACCOUNTS OFFICER(DAD)



INVOICE

Invoice No. CAC/BP OH/R25/03-04/302
Date 21/07/2003

fficer(DAD)
put Division
002

Project : R250 FINAL STAGE CLAIM FOR OVERHUAL OF
W.O. No. 18796 T.O.L : 13/01/2003
R80022
interim/DSM.Q423/Q431 No. KT/10125(03-04) Year of Sale :0304
tch : 27/06/2003 Category of OH : IOH
for the year 00-01/Cost plus IV No. & Date 353 02/01/2003
1. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/06/S/03 DTD.09.01.2003
2. AIR/HQ/S/95357/71/99-00/KPT/FIN P/AF/BUD/S/97. DTD. 25.09.2001

PARTICULARS	AMOUNT CLAIMED
e as per Cost plus/FPQ 0304	40,83,000
dit for items drawn from HAL Held-IAF e as per list enclosed	45,854
vances already claimed voice No. & date 01/07/2003 653 H/431	26,53,950
Net Claim	13,83,196

IRTEEN LAKH EIGHTYTHREE ONE HUNDRED NINETYSIX ONLY

DY.MANAGER / MANAGER(ACCOUNTS)

FOR USE IN AO (DAD)'S OFFICE Code: 01/741/03

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____ Page No. ____ Item No. ____

ACCOUNTS OFFICER(DAD)

9. As value of materials sold by the appellant is clearly indicated in the invoices raised by the appellant, in that circumstances, the appellant is entitled to claim benefit of the notification no. 12/2003/ST dated 20th June, 2003. In that circumstances, the calculating the taxable value of service the value of material sold by the appellant for maintenance and repair of the aircraft is required to be reduced. If the said amount is reduced from the total value of service total value of remuneration received by the appellant, the appellant has paid Service Tax. In that circumstances the impugned demand raised by the Show Cause Notice by denying benefit of notification no. 12/2003/ST dated 20th June, 2003 is not sustainable.

10. As no demand is sustainable against the appellant, no penalty can be imposed on the appellant.

11. In view of this we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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