IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75564 of 2017

(Arising out of Order-in-Appeal No. 30/JSR/2016-17 dated 17.10.2016 passed by the Commissioner (Appeals), Central Excise & Service Tax, 605, Mahabir Tower, Main Road, Ranchi – 834 001)

M/s. B.S. Enterprises **: Appellant**
House No. 3, D-Road, Anil Sur Path, Ulliyan,
Kadma, Jamshedpur – 831 005

VERSUS

Commissioner of Central Excise and Service Tax **: Respondent**
Jamshedpur Commissionerate,
Outer Circle Road, Bistupur,
Jamshedpur – 831 001, Jharkhand

APPEARANCE:

Shri Pankaj Kumar Jha, Advocate, for the Appellant

Shri S.K. Dikshit, Authorized Representative, for the Respondent

CORAM:

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

FINAL ORDER NO. 77310 / 2025

DATE OF HEARING / DECISION: 18.08.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the Order-In-Appeal No. 30/JSR/2016-17 dated 17.10.2016 passed by the Ld. Commissioner (Appeals), CX & Service Tax, Ranchi.

2. The facts of the case are that M/s. B.S. Enterprises, Kadma, Jamshedpur (herein after referred as the appellant) is a registered contractor (vendor) of TGS mainly for providing services in relation to civil construction or works contract. During the period in question, the appellant have provided some specific "job work" to TGS in the premises of TGS on different

types of Excisable Goods. The appellant was of the view that the job work rendered by them on the goods on which excise duty were payable, are fully exempted by Notification No. 08/2005 ST dated 01.03.2005. Hence they neither charged nor collected any Service Tax from TGS.

2.1. As per the Work -Order in question (720038 dt: 14.04.2007), the appellant received the semi-finished goods from TGS for further processing, namely Shot-Blasting, as per specification. The process of performing shot-blasting on supplied semi-finished good/fabricated structure was done inside TGS . After processing of shot-Blasting, the appellant returned back those semi finished good / fabricated structure through challan . After inspection of such processed semi finished / fabricated structure, TGS pay the bill amount to the appellant as per quantity/ per ton basis at the agreed rate.

2.2. The department considered that the services provided by the appellant are liable to service tax under the category of 'manpower supply service'. Accordingly, show cause notice was issued demanding service tax under the category of 'manpower supply service'. On adjudication, the Ld. adjudicating authority vide Order-in-Original dated 08.02.2016 confirmed the demand of service tax along with interest and penalty. On appeal, the Ld. Commissioner (Appeals), vide the impugned order dated 17.10.2016, has upheld the demands confirmed in the Order-in-Original.

2.3. Aggrieved by the confirmation of the demands of service tax, along with interest, and imposition of penalty, the appellant has filed this appeal.

3. The appellant submits that the process undertaken by them on the semi-finished goods, amounts to 'manufacture' within the meaning of Chapter 73 of Central Excise Tariff Act and hence the activity undertaken by them is eligible for the exemption as provided under the Notification No. 8/2005-ST dated: 1-03-2005.

3.1. It is also the appellant's submission that the 'work-order' No-720038 dated 14.04.2007 has categorically mentioned the details of nature of job, manner of performing the job, job performance place , tonnage rate, job supply place etc which inter-alia indicate that specific job has been done and payment has been made on tonnage weight basis or unit job basis. They submit that if the job had been for supply of 'Manpower', the work-order must have contained type of men required, rate per hour basis or per head basis, in-out timing, employer- employee issue etc; absence of these terms is indicative that there is no supply of man-power in this case.

3.2. Accordingly, the appellant contends that the activity undertaken by them, particularly with respect to the work order 720038 dated 14.04.2007 cannot be considered as 'supply of manpower service' to demand service tax.

4. The Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

5. Heard both sides and perused the appeal records.

6. We observe that the lower authorities have relied upon the Work Order No. 720038 dated 14.04.2007 to classify the services provided by the appellant under the category of 'manpower supply service'. For the sake of ready reference, the relevant portion of the said work order is extracted below: -

ATA STEEL LIM

GROWTH SHOP
ADITYAPUR COMPLEX
P.O. GAMHARIA PIN - 832108
DIST - SERAIKELLA-KHARSAWAN JHARKHAND
Ph 0657-2397114 to 116
Fax 0657 2387117

NTRACT CONFIRMATION

ANNEXURE – G

WORK ORDE

Origin

ANNEXURE- G1

Messrs
B.S.ENTERPRISES
F-104, 2ND FLR.,AKANKSHA APTS,
7TH EXTENSION ROAD, SONARI,
JAMSHEDPUR-831011
bsenterprises@rediffmail.com

Dear Sir,

We confirm the conclusion of the normal contract for the purchase of the following goods/services in accordance with terms of delivery indicated below and overleaf

Supplier : BF08
Contract : 720038
Contract Date : 14-04-200
Qtn Ref:
Effective Date : 15-04-200
Expiry Date : 31-07-200

Item/Price Group	Qty Unit	Price Unit	Discount	Excise rate Sales Tax	Charges1 Charges2

THIS RATE CONTRACT IS FOR SHOT BLASTING INSIDE TGS AS PER ITEMS COVERED.
THIS CONTRACT IS VALID FROM 15-04-07 TO 31-07-07.

ORDER CEILING VALUE IS Rs. 5,00,000/- LAKHS(FIVE LAKHS ONLY).

PLEASE KEEP US INFORMED ON COMPLETION OF80% OF THE JOB VALUE.

Item/Price Group	Qty Unit	Price Unit	Discount	Excise rate Sales Tax	Charges1 Charges2
5070/001	200.0000 ton	389.00 ton		0.00 0.00	

SHOT BLASTING WITH SHOT & CONF

PLEASE NOTE THE FOLLWING FOR THIS ITEM:
TASK NO. 5093
WORK-CENTRE:181
SUB-CONTRACTING ITEM:SCP02
FOR BLAST FURNACE JOBS STEEL SHOTS OF REQUIRED QUALITY WILL BE PROVIDED BY TGS.
YOU WILL DO COMPLETE APPLICATION OF PRIMER, INTERMEDIATE PAINT AND FINISH PAINT.

RATES ONLY WITH PRIMER WILL BE AS FOLLOWS:
1) <=100 MT @ Rs. 389/-PER MT
2) >=100 MT @ Rs. 380/-PER MT

FOR OTHER JOBS YOU WILL PROVIDE SHOT BLASTING MEDIA(SAND) AND APPLY PRIMER AS PER SPECIFICATION.

C : ACCOUNTS
Same as P.O.

COPY TO

For TATA STEEL LIMITED
16-4-07
HEAD - SUPPLY CHAIN

REGISTERED OFFICE : 24, HOMI MODI STREET, FORT, MUMBAI - 400 001

TATA STEEL LIMITED
GROWTH SHOP
ADITYAPUR COMPLEX
P.O. GAMHARIA PIN - 832108
DIST - SERAIKELLA-KHARSAWAN (JHARKHAND)
Ph 0657-2387114 to 118
Fax 0657-2387117

WORK ORDER

NTRACT CONFIRMATION

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Supplier : BF88 Contract : 720038 Date: 16-04-07

Item/Price Group	Qty Unit	Price Unit	Discount	Excise Rate Sales Tax	Charges
S0707002	200.0000 ton	389.00 ton		0.00 0.00	

1. ALL SAFETY APPLIANCES RELATED TO SHOT BLASTING OPERATION ARE TO BE ARRANGED BY PARTY.
2. MATERIAL HANDLING FACILITIES & PAINT WILL BE PROVIDED BY TGS.
3. ALL TOOLS TACKELES & SHOT BLASTING M/C ARE TO BE PROVIEDED BY PARTY.

PLEASE NOTE THE FOLLWING FOR THIS ITEM:
TASK NO.5094
WORK CENTRE:177
SUB-CONTRACTING ITEM:SCP16
COMPRESSOR AND SHOT BLASTING MEDIA EXCEPT SAND WILL BE PROVIDED BY US.
PLEASE NOTE THE FOLLWING FOR THIS ITEM:
TASK NO. 5093
WORK CENTRE:181
SUB-CONTRACTING ITEM:SCP02
FOR BLAST FURNACE JOBS STEEL SHOTS OF REQUIRED QUALITY WILL BE PROVIDED BY TGS.
YOU WILL DO COMPLETE APPLICATION OF PRIMER, INTERMEDIATE PAINT AND FINISH PAINT.

RATES WITH FINISH PAINT WILL BE AS FOLLOWS:
1) <=100 MT @ Rs. 389/-PER MT
2) >=100 MT @ Rs. 389/-PER MT

FOR OTHER JOBS YOU WILL PROVIDE SHOT BLASTING MEDIA(SAND) AND APPLY PRIMER AS PER SPECIFICATION.

CC: ACCOUNTS
Name of P.O.
COPY TO

For TATA STEEL LIMITED
16-4-07
HEAD - SUPPLY CHAIN

REGISTERED OFFICE : 24, HOMI MODI STREET, FORT, MUMBAI - 400 001

6.1. From the work order extracted above, we find that the work undertaken by the appellant is processing of semi-finished goods and central excise duty has been discharged on the finished goods. Thus, it is evident that the process undertaken by the appellant amounts to 'manufacture' as defined under section 2(f) of the Central Excise Act, 1944. Accordingly, we hold that the activity undertaken by the appellant is eligible for the exemption as provided under the Notification No. 8/2005-ST, dated 01.03.2005.

6.2. Further, from the work order, we find that the appellant has undertaken the job by themselves. They have not merely supplied the manpower. We observe that the payment has not been received on 'per hour' basis or 'per head' basis. We observe that the man power is under the control of the appellant and they are in their payroll. Thus, it is evident that the ingredients required for categorizing the service under the category of 'manpower supply service' do not exist in this case.

7. Consequently, we hold that the demand of service tax confirmed in the impugned order under the category of 'manpower supply service' is not sustainable and hence we set aside the same. As the demand itself is not sustainable, the question of demanding interest or imposing penalty does not arise.

8. In view of the above discussions, we set aside the impugned order and allow the appeal filed by the appellant with consequential relief, if any, as per law.

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

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd