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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 90 of 2009

(Arising out of Order-in-Original No. 30/COMMISSIONER/CE/KOL-V/ADJN/2008 dated 28.11.2008 passed by the Commissioner of Central Excise, Kolkata-V Commissionerate, 180, Shantipally, E.M. Bypass, Rash Behari Connector, Kolkata – 700 107)

M/s. India Government Mint **: Appellant**
(a unit of Security Printing and Minting Corporation of India Ltd.)
Kolkata – 700 053 (West Bengal)

VERSUS

Commissioner of Central Excise **: Respondent**
Kolkata-V Commissionerate,
180, Shantipally, E.M. Bypass, Rash Behari Connector,
Kolkata – 700 107

APPEARANCE:

Shri Debasish Chaudhuri, Advocate,
Shri Shuvam Sharma, Authorized Representative,
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. 75349 / 2026

DATE OF HEARING / DECISION: 09.03.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed by M/s. India Government Mint (a unit of M/s. Security Printing and Minting Corporation of India Ltd.), Kolkata – 700 053, West Bengal (hereinafter referred to as the "appellant") against the Order-in-Original No. 30/COMMISSIONER/CE/KOL-V/ADJN/2008 dated 28.11.2008 wherein the demand of central excise duty totally amounting to Rs.71,28,544/- has been confirmed against them, along with interest; a penalty of Rs.5,000/- under Rule 27 of the Central Excise Rules, 2002 has also been imposed.

2. The facts of the case are that the appellant herein was one of the nine units under the Department of Economic Affairs, Ministry of Finance, Government of India involved in the production of Circulation Coins and Medals. They were availing exemption from Central Excise duty on all goods vide Notification No. 62/95-C.E. dated 16.03.1995, in terms of Serial No.7 of the said Notification, wherein it is mentioned that "all goods shall be exempt from whole of excise duty if manufactured in Mints belonging to the Government of India."

3. Subsequently, vide Office Memorandum No. F4/17/05-Cy.ll dated 10.02.2006, a new company by the name of M/s. Security Printing and Minting Corporation of India ('SPMCIL' for short) was incorporated with limited liability by shares under the Companies Act, 1956 as a wholly owned company by the Government of India and all the assets & liabilities, existing contracts, agreements and MOUs entered into by the nine units of Department of Economic Affairs were transferred to SPMCIL w.e.f. 10.02.2006. Hence, the appellant-unit became one of the units of SPMCIL w.e.f. 10.02.2006.

4. Show Cause Notices bearing No. 14/Khidirpur-1/Commr/CE/Kol-V/08 dated 02.06.2008 for the period 10.02.2006 to 31.08.2007 and No. 19/Khiddirpore-1/Addl. Commr./Kol-V/08 dated 11.09.2008 for the period 01.09.2007 to 31.01.2008 were issued to the appellant-unit, inter alia proposing to demand central excise duties, along with interest and penalties thereon, on the allegation that the appellant / Mint has ceased to be "belonging to Govt. of India" and therefore, the exemption granted under Notification No. 62/95-C.E. dated 16.03.1995 for duties of excise on products manufactured by the Mint

is no longer applicable to India Government Mint, Kolkata (appellant).

5. Consequent to the issuance of the two Show Cause Notices, the Order-in-Original bearing No. 30/Commissioner/CE/KOL-V/ADJN/2008 dated 28.11.2008 was passed by the Ld. Commissioner of Central Excise, Kolkata-V, wherein the demand for the period 10.02.2006 to 30.04.2007 was dropped on account of being time barred and the demand of Rs.71,28,544/- for the period 01.05.2007 to 31.01.2008, including penalty of Rs. 5,000/- under Rule 27 ibid., was confirmed.

5.1. Aggrieved by the confirmation of the above demands, the appellant has filed the instant appeal.

6. The submissions made by the appellant can, inter alia, be summarized as under: -

(i) Upon corporatisation, SPMCIL was incorporated as a wholly owned Government Company, with 100% of its shares held by the Government of India, through the President of India. The Memorandum of Association (MOA) of SPMCIL, placed on record, clearly establishes that the entire share capital of the company is held by the Government of India.

(ii) Further, the audited financial statements of SPMCIL also consistently demonstrate that the Government of India has been 100% shareholder since its corporatisation in the FY 2005-06 and continues to hold the said shareholding till date. The Audited Balance Sheets, Profit and Loss Accounts and the Notes to Accounts of SPMCIL for all the financial years from 2006-07 till date are also being placed on record along with the present application.

(iii) The Government of India exercises complete administrative and financial control over SPMCIL, and can be said to have deep and pervasive control over its affairs. Further, the functions carried out by the appellant/Mint, namely production of circulation coins and related sovereign instruments, are core sovereign functions of national importance, undertaken exclusively under the authority and supervision of the Government of India.

(iv) Thus, both in substance and in law, the Mint (appellant) continued to remain an institution "belonging to the Government of India", notwithstanding its corporatisation and hence eligible for exemption provided vide Notification No. 62/95-C.E. dated 16.03.1995.

(v) It is further submitted that the Central Government issued Notification No. 3/2010-C.E. dated 27.02.2010, whereby Serial No. 7 of Notification No. 62/95-C.E. was substituted, specifically granting exemption to goods manufactured by India Government Mint, Kolkata by providing that:

> *"In the said notification, in the Table, for Serial No. 7 and the entries relating thereto, the following shall be substituted..."*

(vi) The use of the expression "substituted" indicates that the amendment was made to clarify and rationalise the scope of the earlier exemption, particularly in light of the corporatisation of Government Mints, so as to remove any ambiguity regarding the continued applicability of the exemption. The said amendment therefore reinforces the position that the India Government Mint, Kolkata, continued to be regarded as belonging to Government eligible for exemption for the disputed period 10.02.2006 to 31.01.2008.

6.1. In view of the above submissions, the appellant contends that they are eligible for the exemption as provided under Notification No. 62/95-C.E. dated 16.03.1995 even after corporatisation of the Mint. Accordingly, the demand of central excise duty along with interest and penalty confirmed in the impugned order is legally not sustainable. Thus, it is also contended that the amount of Rs.97,69,701/- (comprising excise duty of Rs.71,33,544/-, interest of Rs.26,36,157/- and penalty of Rs.5,000/-), as deposited by the Appellant pursuant to passing of the impugned order, is liable to be refunded to them.

7. The Ld. Authorized Representative of the Revenue reiterates the findings in the impugned order. It is his contention that in view of the fact that the appellant / Mint was incorporated into a company under the name of Security Printing and Minting Corporation of India (SPMCIL) under the Companies Act, 1956, it cannot be equated with the Government of India itself. Hence, the Appellant are not eligible for the exemption as provided under Notification No. 62/95-C.E. dated 16.03.1995 after corporatisation of the Mint. In support of his contention, reliance has been placed by the Ld. Authorized Representative of the Revenue on the decision in the case of *Collector of Central Excise, Guntur v. Hindustan Shipyard Ltd., Visakhapatnam [1984 (16) E.L.T. 156*

*(Tribunal)]*wherein it was held that Hindustan Shipyard, which is a Government company registered under the Companies Act, cannot be considered as an agent of the President of India or the Central Government; accordingly, the benefit of exemption under the Notification No. 56/75-C.E. dated 01.03.1975 was disallowed by the Tribunal in the said case. The Ld. Departmental Representative submits that the ratio of the said decision is squarely applicable in the facts and circumstances of the present case and thus, prayed for rejection of the appeal filed by the appellant.

8. Heard both sides and perused the records of the case.

9. We observe that the appellant herein was one of the nine units under the Department of Economic Affairs, Ministry of Finance, Government of India, involved in the production of Circulation Coins and Medals. The appellant/Mint was availing exemption from central excise duty on all goods by virtue of Serial No. 7 of Notification No. 62/95-C.E. dated 16.03.1995 wherein it is categorically mentioned that:-

> *"all goods shall be exempt from whole of excise duty if manufactured in Mints belonging to the Government of India."*

9.1. We find that there is no doubt regarding the eligibility of the exemption under Notification No. 62/95-C.E. dated 16.03.1995 to the appellant till 10.02.2006. The eligibility of the exemption to the Appellant has been questioned only when a new company by the name of Security Printing and Minting Corporation of India (SPMCIL) was incorporated, with limited liability by shares, under the Companies Act. It is on record that on corporatization of the Appellant company, all the assets and liabilities, existing contracts, agreements and MOUs entered into by the nine units of the Department of Economic Affairs were transferred to SPMCIL w.e.f. 10.02.2006. We find that the Department took the view that after 10.02.2006, SPMCIL ceased to be a part of the Government of India as it had been incorporated under the Companies Act.

10. We have gone through the scope of objects of the company after its incorporation, as contained in its Memorandum of Association. For the sake of ready reference, some of the major clauses therein are reproduced below: -

> *"1. Pursuant to an agreement to be entered into with the Government of India, to acquire or to take over the management, control, operations and maintenance of, production/printing/manufacture of security grade paper; coins and medallions; currency and bank notes; stamps, non-judicial stamp papers, passport, visas and related documents, security paper; postage stamps and stationary, scrips, security certificates, government securities, bonds, share certificates, cheques, demand draft, identity cards, ink and other related materials required for production/printing of above-stated items and to do the acts or thing being necessary or incidental thereto, hitherto being undertaken by the Department of Economic Affairs, Ministry of Finance, Government of India, through acquisition of India Government Mints situated at Mumbai, Kolkata, Hyderabad & NOIDA, India Government Currency Presses situated at Nashik & Dewas, Security Presses situated at Nashik & Hyderabad; and Paper Mill at Hoshangabad, and/or any other undertaking, company or concern which the Government of India may authorize from time to time, with the assets and liabilities, wholly or partly, including contractual rights and obligations on such terms and conditions as may be set out in the said agreement with the Government of India.*

2. (a) To carry on the business of designing of currency and bank notes, printing press for making and printing of currency and bank notes for the Government of India, Reserve Bank of India or for any other country or Government outside India as approved by the Government of India.

(b) To carry on the business of designing and minting of coins, medallions, seals, tokens, commemorative coins, coins having numismatic value, for the Government of India or for the Government of any other country or for such entities as approved by the Government of India.

(c) To carry on the business of manufacturing/production/printing/designing of postal stamps, postal stationery and other related material/documents; judicial and non- judicial stamps; cheques, demand drafts and security papers/documents for Banks, Financial Institutions, Postal Authorities and like bodies and other agencies; ink and other related material; smelting of gold, silver and other precious metals to be used in the minting of coins; and such other documents as may be required by the Central and/or State Governments, Public sector undertakings, municipal and local bodies, Financial Institutions, any other governmental/non-Governmental agency or authority, or entity in/outside India approved by the Board and/or Government of India.

(d) To carry on the business of dealing in plant, machinery and equipment required for developing, designing, making of bank/currency notes or security printing, and such other materials and things that may be required for carrying on any or all the business of the Company as herein stated."

10.1. From the above, it can be seen that the company continued to perform the same sovereign functions which were being performed prior to its incorporation as a company under the Companies Act w.e.f. 10.02.2006.

11. We also take note of the fact that during the period under dispute, 100% of the shares of the appellant-company were held by the Government of India, through the President of India. A perusal of the Table indicating the Shareholding Pattern, as placed on record by the appellant, clearly reveals that the appellant was wholly owned by the Government of India during the period under dispute. For ease of reference, the relevant portion of the said table is reproduced below:-

SR NO	FINANCIAL YEAR	PARTICULARS	NOTE NO.	REMARKS
1	-	Memorandum of Association	(V) Capital	List of Shareholders
2	2006-07	ROC Annual Return	VIII Equity Share Capital Breakup	100% through Govt.
3	2007-08	Balance Sheet, Profit and Loss Account & Notes to Account	-	Wholly Owned by Govt. of India
4	2008-09	Balance Sheet, Profit and Loss Account & Notes to Account	-	Wholly Owned by Govt. of India

11.1. From the Memorandum of Association and the shareholding pattern after corporatisation, we find that SPMCIL remained as a wholly owned Government Company, with 100% of its shares held by the Government of India, through the President of India. Further, we find that the audited financial statements of SPMCIL consistently demonstrate that the Government of India has been 100% shareholder since its corporatisation in the FY 2005-06 and continues to hold the said shareholding during the period under dispute. We also observe that the Government of India continue to exercise complete administrative and financial control over SPMCIL even after its corporatisation. Further, we observe that the functions carried out by the appellant/Mint, namely production of circulation coins and related sovereign instruments, are core sovereign functions of national importance, undertaken exclusively under the authority and supervision of the Government of India. Thus, we find that both in substance and in law, the Mint (appellant) continued to remain an institution "belonging to the Government of India", notwithstanding its corporatisation. Accordingly, we hold that the appellant is eligible for the exemption as provided vide Notification No. 62/95-C.E. dated 16.03.1995 [Sl. no.7], even after 10.02.2006.

12. In support of their contention that the appellant company is not eligible for the exemption as provided vide Notification No. 62/95-C.E. dated 16.03.1995 [Sl. no.7], after 10.02.2006, the Revenue has referred to the decision of the CESTAT in the case of *Collector of Central Excise, Guntur v. Hindustan Shipyard Ltd., Visakhapatnam [1984 (16) E.L.T. 156 (Tribunal)].* We have perused the said decision cited by the Revenue. In the said case, it was held that Hindustan Shipyard, which is a Government company registered under the Companies Act, cannot be considered as an agent of the President of India or the Central Government and has a separate legal entity from its shareholders. Accordingly, the benefit of exemption under the Notification No. 56/75-C.E. dated 01.03.1975 was disallowed by the Tribunal in the said case. However, in the present case, we find that SPMCIL remained as a wholly owned Government Company, with 100% of its shares held by the Government of India, through the President of India, even after its incorporation under the Companies Act. Further, we find that the functions carried out by the appellant/Mint, namely production of circulation coins and related sovereign instruments, are core sovereign functions of national importance, undertaken exclusively under the authority and supervision of the Government of India.

Thus, we find that both in substance and in law, the Mint (appellant) continued to remain an institution "belonging to the Government of India", notwithstanding its corporatisation. This is not the case in the case of Hindustan Shipyard cited by the Revenue. Thus, we observe that the facts and circumstances of the case on hand are distinguishable from the facts of the case cited by the Revenue.

13. We also take note of the fact that the Central Government issued Notification No. 3/2010-C.E. dated 27.02.2010, whereby Serial No. 7 of Notification No. 62/95-C.E. was substituted, specifically granting exemption to goods manufactured by India Government Mint, Kolkata by providing that:

> *"In the said notification, in the Table, for Serial No. 7 and the entries relating thereto, the following shall be substituted..."*

13.1. The use of the expression "substituted" in the above said notification indicates that the amendment was made to clarify and rationalise the scope of the earlier exemption, particularly in light of the corporatisation of Government Mints, so as to remove any ambiguity regarding the continued applicability of the exemption. Thus, we observe that the said Notification No. 3/2010-C.E. dated 27.02.2010 reinforces the position that the India Government Mint, Kolkata, continued to be regarded as belonging to Government eligible for exemption for the disputed period 10.02.2006 to 31.01.2008.

14. In view of the discussions hereinabove, we hold that the appellant is eligible for the exemption as provided under Notification No. 62/95-C.E. dated 16.03.1995 even after 10.02.2006 and consequently, the demand of central excise duty, along with interest and penalty, confirmed vide the impugned order are liable to be set aside. Accordingly, we set aside the same.

15. We also find that the appellant has paid central excise duty of Rs.71,33,544/- on 31.08.2010, interest of Rs.26,36,157/- on 18.10.2012, and have also paid the penalty of Rs.5,000/-, as submitted by them. As the demands confirmed against the appellant vide the impugned order have been held as unsustainable and there is no liability to pay central excise duty on the appellant, we hold that the appellant shall be eligible for refund of the central excise duty, interest and penalty paid by them pursuant to passing of the impugned order.

16. In the result, we pass the following order: -

(i) The demand of Rs.71,28,544/-, along with interest and penalty, as confirmed vide the impugned order, is set aside, with consequential relief, if any, as per law.

(ii) The appellant is eligible for the refund of central excise duty, interest and penalty as paid by them pursuant to passing of the impugned order.

17. In these terms, the appeal filed by the appellant is allowed.

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

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Sdd