IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 76433 of 2017

(Arising out of Order-in-Original No.DGR-EXCUS-000-COM-027-16-17 dated 01.03.2017 passed by Commissioner of Customs, Central Excise & Service Tax, Durgapur)

M/s Steel Authority of India Ltd. **: Appellant**
Financial & Accounts Department, Durgapur Steel Plant,
Durgapur-713203,
West Bengal.

VERSUS

Commissioner of Customs, Central Excise & Service Tax, **: Respondent**
Satyajit Ray Sarani, City Centre, Durgapur-713216,
District-Burdwan, West Bengal.

APPEARANCE:

Shri Abhijit Biswas, Advocate for the Appellant

Shri P.Das, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 75388/ 2026

DATE OF HEARING :09.03.2026

DATE OF DECISION:09.03.2026

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order confirming the demand of Service Tax amount to Rs. 1,77,21,151/- alongwith interest and equivalent amount of penalty. The facts of the case are as under:

2. The facts of the case are as under:

2.1. The appellant carries on the business of manufacture and sale of iron and steel products. For the said purposes the appellant has, inter alia, integrated steel plants at different places of the country. One such plant is situated at Durgapur in the State of West Bengal and is known as "Durgapur Steel Plant" (in short, "**DSP**"). The instant appeal relates to the said DSP of the appellant.

2.2. DSP is duly registered under the Central Excise Act, 1944 as well as the Finance Act, 1994 (hereinafter referred to as "**the Act**") for carrying out manufacturing and other activities in the said integrated steel plant (hereinafter referred to as the "**said factory"**).

2.3. As a business activity and to remain competitive in the business, DSP is required to not only expand its production capacity but also modernize its own manufacturing process from time to time to get the benefit of economy of volume and higher productivity. For the said purposes, DSP enters into contracts with different parties for, inter alia, design, engineering and supply of goods and/or for technical services. The service tax payable for the taxable services rendered is duly effected by DSP where such payments are required to be made on reverse charge basis.

2.4. For setting up of 110 TPH Walking Beam type Reheating Furnace, the appellant entered into a contract with one Bric Mont Inc., USA, being Contract No. PUR/PC/RHF-1.01/717 dated December 16, 2004. The said contract was for design and engineering, supply of plant and equipment, refractories, erections, testing, commissioning, etc., for the said project at the said factory.

2.5. The appellant also entered into a contract, being Contract No. PUR/PC/BLC-1.01/760 dated

September 3, 2004, for design and engineering, supply of plant and equipment, refractories, erections, testing, commissioning, etc., for a Bloom Caster under the Bloom Caster project at the said factory.

2.6. The appellant also entered into a similar contract, being Contract No. PUR/PC/CDI-01/828 dated March 24, 2006, for the Coal Dust project to be set up at the said factory with a Consortium in which M/s. Beijing Sino – Steel Industry & Trade Group Corporation, China, was a consortium member and contractor. Under the said contract, the said foreign consortium was awarded the contract for design and engineering, supply of plant and equipment, refractories, erections, testing, commissioning, etc., for the Coal Dust Injection System in the said project.

2.7. Since none of the three foreign companies had any office in India, service tax liability under the Act on the services provided by the said three parties was the liability of DSP. Relevant materials on record would demonstrate that DSP has duly complied with the said obligation as per Section 66A of the Act read with Rule 2(1)(d)(iv) of the Service Tax Rules, 1994 (hereinafter referred to as the "**said Rules**"). DSP duly complied with its obligation under the Act as regards payment of service tax and filing of return as prescribed.

2.8. However, on the allegation that as per the provisions of Section 67 of the Act read with Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006 (in short, "**the Valuation Rules**") the value of goods provided by the three foreign companies under the three contracts (hereinafter referred to as the "**said contracts**") were required to be included in determining the taxable value and, consequently, the payment of service tax required to be made, which DSP did not do and paid service tax only on the service part, DSP was called upon to show cause to the Commissioner of Central Excise, Bolpur Commissionerate, Bolpur as to why the alleged differential service tax amounting to Rs.2,27,04,508/- (including education cess and secondary & higher education cess) on the goods amounting to Rs.18,41,51,836/- received from the three foreign parties should not be demanded and recovered from DSP in terms of the Proviso to Section 73(1) of the Act, along with interest thereon in terms of Section 75 of the Act and as to why penalties separately should not be imposed upon DSP under Sections 76 and 78 of the Act respectively.

2.9. DSP submitted its reply to the show cause notice to the Commissioner of Customs, Central Excise & Service Tax, Durgapur Commissionerate, Durgapur (hereinafter referred to as "**the Commissioner**"). In its reply dated July 26, 2016, DSP drew the attention of the Commissioner to the correct facts and law on the issue and to the misconceived nature and patent untenability of the allegations made in the show cause notice and requested for dropping of the proceedings initiated by the show cause notice.

2.10. The authorised representatives of DSP also appeared at the personal hearing in connection with the adjudication proceedings under the said show cause notice before the Commissioner on July 26, 2016 and made further submissions, while reiterating the statements and submissions made in its reply dated July 26, 2016 and again requested that the misconceived proceedings initiated against DSP be dropped.

2.11. Thereafter, a further personal hearing was held on February 15, 2017 by the Commissioner, when DSP's representatives again duly appeared before him and, while clarifying certain particulars sought for by the Commissioner, submitted a write up dated January 31, 2017, responding to the further queries made after the earlier personal hearing by the Department in the matter, an order in original dated march 1,2017 passed by the Commissioner whereby the Commissioner, while dropping the demand of service tax amounting to Rs.49,83,358/- , purported to confirm a total service tax demand of Rs.1,77,21,151/- against the appellant in terms of the Proviso to Section 73(1) of the Act, along with interest thereon in terms of Section 75 of the Act. The Commissioner further imposed a penalty of Rs.1,77,21,151/- upon the appellant under Section 78 of the Act. Being aggrieved by the said order of the Commissioner, the appellant is preferring the instant appeal.

3. Against the said order appellant is before us.

4. The Ld.Counsel for the appellant submits that the appellant paid Service Tax under Reverse Charge Mechanism w.e.f. 01.6.2007 as works contract services. Therefore, the Service Tax is not payable by the appellant prior to 01.06.2007 as the appellant has received the services alongwith material and Revenue wants to include the value of material in the

value of taxable services. Therefore, impugned order qua demanding Service Tax on value of material is not sustainable.

5. Ld. Authorized Representative reiterated findings of the impugned order.

6. We find that the facts are not in dispute that for setting of Reheating Furnace, the appellant entered into a contract with one Bric Mont Inc., USA, and that said contract was for design and engineering, supply of plant and equipment, refractories, erections, testing, commissioning etc. For the aid project at the factory premises and also entered into a contract for design and engineering supply of plant and equipment, refractories, erections, testing, commissioning, etc for a Bloom Caster project. Further for Coal Dust project to be set up at said factory with a Consortium in which M/s. Beijing Sino-Steel Industry & Trade Group Corporation, China was a consortium member and contractor. Under the said contract, the said foreign consortium was awarded the contract for design and engineering, supply of plant and equipment, refractories, erections, testing, commissioning, etc.for the Coal Dust Injection System in the said project.

7. Admittedly all these projects have been executed by the service provider along with material and during the period 18th April, 2006 to 30th April, 2009 vide Show Cause Notice dated 16.12.2010. Admittedly the activity undertaken by the appellant appropriately classified under works contract services wherein a service has been provided alongwith material having merit classification under works contract service and the demand of Service Tax has been raised against the appellant under Consulting

Engineering Service. Admittedly the services received by the appellant are appropriately classified under works contract service and as held by the Hon'ble Apex Court in the case of Commissioner of C.Ex. & Customs, Kerela versus Larsen & Toubro Ltd. 2015 (39) S.T.R. 913 (S.C.). Therefore, we hold that no demand is sustainable under Consulting Engineering Services.

8. Therefore, whole of the demand is set aside. In result, appeal is allowed 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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