

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. I**

Appeal No. ST/86009/2015

(Arising out of Order-in-Appeal No. PUN-SVTAX-000-APP-0010-14-15 dated 23.01.2015 passed by the Commissioner of Central Excise & Service Tax (Appeals), Pune).
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M/s Bhima SSK Ltd.	Appellant
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Vs.

Commissioner of Central Excise & Service Tax, Pune	Respondent
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Appearance:

Shri Devendra Athawale, Advocate	for Appellant
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Shri M. Suresh, DC (AR)	for Respondent
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CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL) HON'BLE MR. P ANJANI KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 20.12.2018

Date of Decision: 20.12.2018

ORDER NO. **A/88249 / 2018**

Per: Dr. D.M. Misra

Heard both sides.

2. This is an appeal filed against Order-in-Appeal No. PUN-SVTAX-000-APP-0010-14-15 dated 23.01.2015 passed by the Commissioner of Central Excise & Service Tax (Appeals), Pune.

3. Briefly stated the facts of the case are that the appellant is manufacturer of excisable goods viz. sugar as well as provider of taxable service, accordingly registered with the Department for both the activities during the relevant period 2011-12. Alleging that they have failed to discharged Service Tax on the freight charges under the taxable category of GTA services, a show-cause notice was issued to them for recovery of the Service Tax amounting to Rs.14,33,925/- with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order, they filed an appeal before the learned Commissioner (Appeals), who in turn, rejected their appeal.

4. Learned Advocate Shri Devendra Athawale for the appellant submits that during the relevant period even they have paid inward freight for transportation services received and the charges paid for each consignment was less than Rs.750/-, and freight amount paid was less than Rs.1500/- for single goods carriage hence covered by the Notification No. 33/2004-ST dated 03.12.2004. He submits that for the earlier period, the issue was decided in their favour by this Tribunal reported as *Bhima SSK Ltd. Vs. Commissioner of Central Excise, Pune-III – 2016 (41) STR 438 (Tri-Mum)* and vide Order No. A/88063/17/STB dated 16.06.2017.

5. Learned AR for the Revenue reiterates the findings of the learned Commissioner (Appeals).

6. We find that this Tribunal in the appellant's own case for the earlier period considered the issue of taxability of the inward freight charges paid when the amount paid for transportation in each consignment was less than Rs.750/- and for a single carriage is less than Rs.750/. The issue has been decided in their favour for earlier period by this Tribunal reported as above, which was followed subsequently vide order No. A/86063/17/STB dated 16.6.2017. Following the aforesaid precedent, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in Court)

(P Anjani Kumar)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

Sinha