CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86544 of 2016

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/917/15-16 dated 09.02.2016 passed by the Commissioner (Appeals) Central Excise, Customs & Service Tax, Nagpur)

Dy Executive Engineer (Civil) **.... Appellant**
Maharashtra State Electricity Distribution Co. Ltd.,
CCM Sub Division, PSC Pole Factory, Jalna Road,
Beed- 431 122.

Versus

Commissioner of Central Excise and Service Tax, Aurangabad **.... Respondent**
Town Centre, N-5, CIDCO, Aurangabad- 431 005.

APPEARANCE:

None for the Appellant

Shri P.K. Acharya, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86119/2025

Date of Hearing: 09.07.2025
Date of Decision: 09.07.2025

Per: S.K. MOHANTY

None appeared for the appellant, despite issuance of notice by the Registry. We find that the matter had already been adjourned on several occasions i.e. 15.10.2024, 09.01.2025 and 24.03.2025. On none of the occasions, the appellants were present for advancing their case for a decision on merits. Non-appearance on the part of the appellant shows that he is not interested in pursuing its legal remedy provided under the statute. Therefore, without granting any further adjournment in the matter, with the assistance of the learned

Authorized Representative for Revenue, we are taking up the appeals for hearing today, for decision on merits.

2. Brief facts of the case are that the appellant is engaged in the manufacture of PSC Poles, falling under Chapter 68 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellants did not pay Central Excise duty on the PSC Poles manufactured by them. Non-payment of Central Excise duty was with the reason that it was entitled for the exemption provided under Notification No.74/93-C.E. dated 28.02.1993. The appellants had pleaded that since it is owned/administratively controlled by the State Government, duty exemption provided under the Notification dated 28.02.1993 should be available.

3. We find that the issue arising out of the present dispute is no more open for any debate, in view of the order dated 30.09.2008 passed by the Larger Bench of the Tribunal in the case of *Asstt. Engineer (Civil) Vs. Commissioner of Central Excise, Raipur* reported in 2008 (232) E.L.T. 628 (Tri.-LB). The relevant paragraphs in the said order are quoted hereinbelow:

> "10. *Be that as it may, as seen above, the Notification lays down twin conditions and unless both the conditions are satisfied exemption cannot be claimed. Admittedly, Chhattisgarh State Electricity Board is not a Department of the Government. Merely because 100% capital is owned by State Government does not make it a body at par with the State Government. Hence the PCC poles manufactured in the factories which admittedly belong to the Electricity Board does not qualify for exemption. That apart the intended or actual user of the poles also being the Board itself, and not any Department of the State Government, the other condition is also not fulfilled.*
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> *11. In the result, the reference is answered in the negative and against the appellant. It is held that Chhattisgarh State Electricity Board is not a Department of the State Government so as to be eligible for exemption in respect of goods i.e. PCC Poles manufactured in their factories."*

Further, we also find that this Bench of the Tribunal in the case of *Commissioner of C. Ex., Nasik Vs. Dy. Engg.(C) MSEB, PSC, Pole Factory* - 2014 (302) E.L.T. 427 (Tri. Mumbai) has allowed the appeal filed by the Revenue, holding that the Maharashtra State Electricity Board cannot be considered as a government company, for the purpose of availing the benefit of Notification dated 28.02.1993 (supra).

4. In view of the fact that the present appellant is not confirming to the requirement of the Notification dated 28.02.1993 (supra), in our considered opinion, the duty exemption provided therein shall not be applicable in terms of the above referred decisions of the Tribunal. Therefore, we do not find any infirmity in the impugned order, and as such, dismiss the appeal filed by the appellant.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM