

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

WEST ZONAL BENCH

SERVICE TAX APPEAL NO: 85081 OF 2025

[Arising out of Order-in-Appeal No: SK/475/Appeals-II/ME/2023-24 dated 15th December 2023 passed by the Commissioner of CGST & Central Excise (Appeals-II), Mumbai.]

Chevron Philips Chemical India Private Limited

4th Floor, Wework Spectrum Tower, Off Link Road
Malad West, Mindspace Chincholi Bunder Road
Mumbai – 400 064

... Appellant

versus

Commissioner of CGST & Central Excise

Mumbai East

CGST Bhawan Plot No. C-24, Sector E
Bandra-Kurla Complex, Bandra East, Mumbai – 400 051

...Respondent

APPEARANCE:

Shri Mayur Jain, Advocate for the appellant

Shri Dhananjay Dahiwal, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)

HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 86945/2025

DATE OF HEARING:

16/09/2025

DATE OF DECISION:

01/12/2025

PER: C J MATHEW

M/s Chevron Philips Chemical India Private Limited is

aggrieved by the rejection of their challenge to recovery of service tax of ₹ 61,89,672 under section 73 of Finance Act, 1994, along with appropriate interest under section 75 of Finance Act, 1994, and imposition of penalties under several provisions of Finance Act, 1994, as confirmed by original authority, in order¹ of Commissioner of CGST (Appeals-II), Mumbai solely on the ground that

'14. I find that the ratio of above judgements is squarely applicable in the present case. I find that Appellant did not produce any documents before me in r/o authorized signatory to establish that he is authorized signatory which is a mandatory requirement of law which cannot be ignored, I find that sufficient opportunity and period was given to the appellant to submit the Board of Resolution before the Appellate Authority. However, the appellant has not submitted the documents. Since the appellant has failed to submit any documents in r/o authorized signatory, I find that the said appeal application is not a valid document in terms of Central Excise (Appeals) Rules, 2001. Therefore, the said appeal filed by the Appellant could not be entertained and is liable for rejection without going into merits of the case. Accordingly, I pass the following order.'

without going into the merit of their case.

2. According Learned Counsel for the appellant, even if the resolution of Board of Directors of appellant company, authorizing the said person to handle the dispute, had not been furnished along with

¹ [order-in-appeal no. SK/475/Appeals-II/ME/2023-24 dated 15th December 2023]

appeal, such defect is not fatal to maintainability and disposal on merits. He contended that there is no finding that, despite having been placed on notice of such deficiency, the want was not remedied. It was submitted that the appellant, as exporter of service, was not liable to service tax under Finance Act, 1994 owing to which the issue in dispute should have been decided on merit.

3. Reliance was placed on the decision of the Hon'ble High Court of Bombay in *Tata Consumer Products Ltd v. Union of India* [2024 (9) TMI 396 – BOMBAY HIGH COURT] and of the Tribunal in *Anlage Infotech (India) Pvt Ltd v. Commissioner of CGST & Central Excise, Mumbai* [2024 (6) TMI 993 – CESTAT MUMBAI] besides that in final order², in *IPC Information Systems India Pvt Ltd v. Commissioner of Central Goods and Service Tax, Mumbai East*, disposing off appeal³ against order⁴ of Commissioner of CGST and Central Excise (Appeals–II), Mumbai.

4. Learned Authorized Representative submitted that the impugned order has clearly pointed out specifications in rule 3 of Central Excise (Appeals) Rules, 2001 for filing of appeal to be maintainable and that, on facts, it is clear that resolution of Board of Directors was not placed along with the appeal.

² [no. A/86883/2024 dated 18th November 2024]

³ [service tax appeal no. 87639 of 2024]

⁴ [[order-in-appeal no. ST/156/Appeals-II/ME/2024-25 dated 3rd July 2024]

5. The appeal before the Tribunal is maintainable in the absence of any deficiency pointed out by the Registry, and upon inclusion in the cause list, the Tribunal, as empowered by section 86 of Finance Act, 1994, is only required to examine merits of the submissions therein. Furthermore, with option of memorandum of cross-objections under section 86 of Finance Act, 1994 not having been exercised by the respondent-Commissioner of CGST & Central Excise, Mumbai East, we are only required to determine if the rejection by the first appellate authority has the sanctity of law inasmuch as the appellant herein did furnish the resolution, dated 16th November 2009, of the Board of Directors of the appellant-company.

6. Appeal on behalf of the aggrieved company is maintainable if the person filing has been appropriately authorized. Jeopardy, arising from want of that particular document, to maintainability of the appeal was necessarily to be intimated to the appellant to enable appropriate rebuttal and, more especially, owing to defect being curable. Even if the resolution was not available, with the appeal having been filed in time, the assessee should have been provided with an opportunity to substitute the appeal with appropriately validating documents. Here, of course, the resolution dated 16th November 2009 predates the filing of appeal and it was merely a question of ascertainment of the existence of such resolution. The appellant herein was made cognizant of lack thereof only with the issue of the impugned order.

7. With the resolution now available on record, defects stand removed and the appeal is maintainable for disposal on merits. To enable that, it would be appropriate to set aside the impugned order and remand the matter back to the first appellate authority for a fresh decision and in compliance with the principles of natural justice.

8. Appeal is allowed by way of remand.

(Order pronounced in the open court on 01/12/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*