

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
MUMBAI  
REGIONAL BENCH**

**COURT NO.1**

**Excise Appeal No. 86271 of 2013**

(Arising out of Order-in-Appeal No. PII/MMD/296/2012 dated 18.12.2012 passed by the Commissioner of Central Excise (Appeals), Pune-II)

**Dy. Executive Engineer (Civil)**

Maharashtra State Electricity Distribution Company,  
PSC Pole Factory, Civil Construction cum  
Maintenance sub division, Jaisingpur,  
Shirol Road, Opp. J.J. Magdum Eng. College,  
Dist. Kolhapur

**Appellant**

*Versus*

**Commissioner of CGST, Kolhapur**

Vasant Plaza, Rajaram Road,  
Kolhapur 416 003.

**Respondent**

Appearance:

None for the Appellant

Shri Ranjan Kumar, Authorised Representative, for Respondent

**CORAM:**

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**

**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

Date of Hearing: 12.12.2025

Date of Decision: 12.12.2025

**FINAL ORDER No. 87034/2025**

**PER: S.K. MOHANTY**

None appeared for the appellant, despite issuance of various notices by the Registry. Heard the learned AR for Revenue.

2. On perusal of the case records, we find that the matter got adjourned on 11.11.2024, 18.02.2025, 13.05.2025, 21.07.2025 and 12.11.2025, with the remarks in the order sheet that none appeared on behalf of the appellant. Since sufficient opportunities have been granted by the Tribunal for appearance by the parties to the appeal, non-appearance by the appellant shows that it is not interested in pursuing their right of appeal before the Tribunal. Thus, we are of the view that without further adjourning the matter, the appeal can be

disposed of on the basis of available records and with the assistance of learned AR for Revenue, for a decision on merits. Accordingly, the appeal is being taken up for hearing and disposal today.

3. Briefly stated, the facts of the case are that the appellant is engaged in the manufacture of 'Pre-Stressed Cement poles (PSC poles)', falling under Chapter Sub-heading 6810 9990 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellant had availed exemption under Notification No. 74/93-C.E., dated 28.02.1993, as amended. The said notification provides that the whole of the duty of excise leviable on the goods shall be exempted, subject to the conditions that such goods are manufactured by a factory, belonging to a State Government and such goods are intended for use by any department of that Government. In the case in hand, the appellant is not conforming to such requirement provided under the notification dated 28.02.1993 inasmuch as, it is a State Government Undertaking and is not recognized as a department under the Government of Maharashtra. Since the requirement of notification dated 28.02.1993 has not been complied with, we are of the view that the benefit provided thereunder should not be available to the appellant. We find that in an identical case, this Tribunal in the case of *Maharashtra State Electricity Distribution Co. Ltd. vs. Commissioner of Central Excise, Aurangabad* [2019 (4) TMI 722 – CESTAT MUMBAI] has dismissed the appeal filed by the appellant, holding as under:-

"4. *It is seen that the issue arising out of the present dispute is no more res integra, in view of the decision of the Larger Bench of the Tribunal, in the case of Asst. Engineer (Civil) v. CCE, Raipur – 2008 (232) ELT 628 (Tri. LB), wherein it has been held that the factory belonging to the Chhattisgarh State Electricity Board did not belong to the State Government and poles are used by themselves for their electrification and thus, the condition of the notification has not been complied with. The relevant portion of the order of Larger Bench is extracted herein below:-*

"9. *It was submitted that the decision in Electricity Poles Manufacturing (supra) was upheld by the Supreme Court in Civil Appeal No. 1827 of 2001 vide 2006 (202) E.L.T. A144 (S.C.). From the text of the order, it appears that the appeal of the Department was summarily dismissed observing that Court found no reason to interfere with the order. It is well settled that summary dismissal of SLP/Civil Appeal by the Supreme Court does not amount to affirmation of the judgment/order of the Court/Tribunal appealed against, on merit. It merely means that the Supreme Court declined to interfere in the matter. As a matter of fact, learned DR appearing for the Revenue pointed out that the issue*

*involved in the case of Electricity Poles Manufacturing related to SSI Exemption and, therefore, the fact that the Supreme Court did not interfere with the Tribunal's Order has little significance.*

*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."*

4. In view of the above discussions, we do not find any merits in the appeal filed by the appellant and accordingly, the same is dismissed.

(Order dictated in the open court)

**(S.K. Mohanty)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**