CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Miscellaneous Application No. 86102 of 2025

IN

Service Tax Appeal No. 89253 of 2018

(Arising out of Order-in-Appeal No. 202/GH/2017-18/Raigad dated 17.07.2018 passed by Commissioner (Appeals), CGST & CX, Thane-Audit, Mumbai.)

Commissioner of Customs, Excise and Service Tax, Navi Mumbai .... **Appellant**
10th Floor, Satra Plaza, Palm Beach Road,
Sector 19D, Vashi, Navi Mumbai- 400 705.

Versus

Petron Civil Engineering Pvt. Ltd. .... **Respondent**
6th Floor, Swastik Chambers, Sion,
Trombay Road, Chembur, Mumbai- 400 012.

APPEARANCE:

Shri Arun Bhaskar, Authorized Representative for the Revenue

None for the Respondent

CORAM:

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

FINAL ORDER NO. A/85389/2026

Date of Hearing : 24.02.2026
Date of Decision: 24.02.2026

PER: S.K. MOHANTY

Heard learned Authorized Representative and perused the case records.

2. Feeling aggrieved with the impugned order dated 17.07.2018 passed by the learned Commissioner (Appeals), CGST & C. Ex., Thane Audit, Mumbai, Revenue has preferred this appeal before the Tribunal. In the impugned order, the learned Commissioner (Appeals) has set aside the original order and

remanded the matter back to the original authority for verifying the claim of the respondent of having discharged the service tax liability on time. Revenue has preferred this appeal before the Tribunal, on the ground that the Commissioner (Appeals) has not passed the reasoned and speaking order and that in terms of the provisions of Section 35A of the Central Excise Act, 1944, he has no power to remand the matter back to the adjudicating authority for fresh consideration of the merits of the case. The amount involved in the impugned proceedings is Rs.22,31,721/-. Insofar as the monetary limit for filing of appeal before the Appellate Tribunal is concerned, by deriving the powers conferred in Section 35R of the Central Excise Act, 1944, made applicable to matters relating to service tax under Section 83 of the Finance Act, 1994, the Central Board of Indirect Taxes and Customs (CBIC) has issued the instructions, from time to time, with the objective in reduction of the Government litigation in the area of Central Excise and Service Tax. In the latest instruction issued by the CBIC from file F. No. 160390/20/2024-JC-CBEC dated 06.08.2024, the threshold monetary limit of Rs. 60 lakhs has been prescribed, below which the appeal shall not be filed before the CESTAT.

3. In the case in hand, since the service tax demand confirmed in the adjudication order is below the threshold limit of Rs.60,00,000/- prescribed under the said Instruction dated 06.08.2024, Revenue is not permitted to file appeal before the Tribunal. It is confirmed that the disputed amount of service tax involved in the present appeal preferred by the Revenue is less than the monetary limit prescribed under the instruction dated 06.08.2024 issued by the CBIC. Further, though at paragraph 3 in the said instructions dated 06.08.2024, there is specific mention of agitating the matter before the Appellate Forum, irrespective of the involvement of the amount on certain issues, but the issue categorized therein are not confirming to the present appeal filed by the Revenue inasmuch as the confirmation of service tax demand on the commercial or industrial construction service, is the subject matter of present dispute. Hence, the appeal can be disposed of in terms of the litigation policy formulated by the Government. Revenue has also filed the miscellaneous application, seeking for withdrawal of appeal on the ground of monetary limits.

4. Considering the disputed amount of service tax involved in the present appeal and that the jurisdictional Commissioner in his application dated 21.01.2025 has specifically prayed for withdrawing the appeal, being below

the prescribed threshold limit as per the Instruction dated 06.08.2024 issued by the CBIC, the appeal filed by the Revenue in our considered view, is liable to be dismissed. Accordingly, the appeal filed by Revenue is dismissed under the Litigation Policy of the Government.

5. Miscellaneous Application filed by Revenue stands disposed of.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM