

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.13325 of 2013

(Arising out of OIA-179/2013-STC-/SKS/COMMR-A-/AHD dated 20/08/2013 passed by Commissioner of Service Tax-SERVICE TAX - AHMEDABAD)

Ramaben Parmar

.....Appellant

Proprietor, Rama Engineering Company, Plot No. 4702, Phase-Iv, Gidc, Vatva,
AHMEDABAD, GUJARAT

VERSUS

C.S.T.-Service Tax – Ahmedabad

.....Respondent

7 Th Floor, Central Excise Bhawan, Nr. Polytechnic
CENTRAL EXCISE BHAVAN, AMBAWADI,
AHMEDABAD, GUJARAT-380015

APPEARANCE:

Shri P P Jadeja, Consultant for the Appellant

Shri Vijay G. Iyengar, Assistant Commissioner (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR**

Final Order No. A/ 10379 /2023

DATE OF HEARING: 14.02.2023

DATE OF DECISION: 01.03.2023

RAMESH NAIR

The brief facts of the case are that the appellant have carried out the job work on the casting supplied by the principal manufacturer for machining and other process to make the parts for use in the manufacture of final product of the principal manufacturer. The appellant also rented their premises, the revenue has demanded service tax on the job work under the category of Business Auxiliary Service and service tax on renting of Immovable property.

02. Shri P P Jadeja, learned consultant appearing on behalf of the appellant submits that as regard the job work done by the appellant, the process which involved is from the rough casting by the process of machining, the rough cast was converted into part of the final product and returned to the principal manufacturer. He submits that the activity is clearly of manufacturer in terms of Section 2(f) of Central Excise Act, 1944 which is excluded from the service of Business Auxiliary Service therefore, the same

is not taxable being the domain of the central excise. He placed reliance on the following judgments:-

- GRASIM INDUSTRIES LTD.- 2011 (273) ELT 10 (S.C.)
- GURUKRIPA RESINS PVT. LTD.- 2011 (270) ELT 3 (S.C.)
- FINE CHEMICALS PVT. LTD.- 1995 (77) ELT 49 (S.C.)
- NARNE TULAMAN MANUFACTURERS PVT. LTD.- 1988 (38) ELT 566 (S.C.)
- RAVAL TRADING COMPANY- 2016 (42) S.T.R. 210 (Guj.)
- BAJAJ TRAVELS LTD.- 2012 (25) S.T.R. 417 (Del.)
- MOTOR WORLD- 2012 (27) S.T.R. 225 (Kar.)
- FIRST FLIGHT COURIER LTD.- 2011 (22) S.T.R. 622 (P & H)

2.1 As regard the service of renting of immovable property service, since the job work activity is out of the purview of service, the value of the same was not taken into account for the purpose of exemption under Notification No. 6/2005-ST accordingly, the independent value of renting of immovable property comes below the threshold limit of exemption limit provided under Notification No.6/2005-ST hence, no service tax will be chargeable.

03. On the other hand Shri Vijay G. Iyengar, learned Assistant Commissioner (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

04. We have carefully considered the submissions made by both the sides and perused the records. As regard the service tax on the job work carried out by the appellant, we find that the appellant have converted the casting by process of machining into a parts which is used by the principal manufacturer in the manufacture of their product. The conversion from rough casting into parts by process of machining clearly falls under the terms 'Manufacturer' in terms of Section 2(f) of Central Excise Act, 1944. This is also supported by the decision in the case of ACCURATE ENGINEERS-2018 (9) G.S.T.L. 93 (Tri.-Del.) wherein, the department had claimed that the machine parts are classifiable under 73 which is chapter of casting whereas, the tribunal in the said case held that after machining operation of the casting, the goods get the characteristics of the part of machinery and correctly classifiable under heading 8409 of Central Excise Tariff Act. With this above observation, it is clear that the casting which falls under Chapter 73 and after machining the parts falls under different heading of the machine parts therefore, the process is clearly a manufacturing process. The Business Auxiliary Service clearly excludes the activity which amounts to

manufacture in terms of Section 2(f) of Central Excise Act, 1944 therefore, the appellant's activity of job work i.e. machining of casting is amount to manufacture hence, the same is out of the purview of Business Auxiliary Service hence cannot be taxed under the said category.

4.1 As regard the service tax demand on renting of immovable property service, we find that since the alleged Business Auxiliary Service has clearly gone out of the service, the value of the same cannot be taken for calculating the threshold limit of notification no. 6/2005-ST for the purpose of charging service tax on renting of immovable property, accordingly, after exclusion of the job work value, net amount of renting of immovable property is below the threshold limit under notification no. 6/2005-ST. Hence, no service tax is payable. Revenue has liberty to verify the quantification.

05. As per our above discussion and finding, the impugned order stands modified to the above extent. The appeal is allowed in the above terms.

(Pronounced in the open court on 01.03.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C.L. MAHAR)
MEMBER (TECHNICAL)

Mehul