

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

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 13655 of 2013 – DB

ST/CROSS/ 12687/2014

(Arising out of OIO-STC/25/COMMR/AHD/2013 dated 04/07/2013 passed by Commissioner of Service Tax-SERVICE TAX - AHMEDABAD)

C.S.T.-Service Tax – Ahmedabad

.....Appellant

7th Floor, Central Excise Bhawan, Nr. Polytechnic
Central Excise Bhawan, Ambawadi,
Ahmedabad, Gujarat - 380015

VERSUS

Deep Industries Limited

.....Respondent

6th Floor, Astron Tower,
Opp. Fun Republic Cinema, S.G.Highway,
Ahmedabad, Gujarat

APPEARANCE:

Shri Rajesh K Agarwal, Superintendent (AR) for the Appellant
Shri Punit Prajapati, Chartered Accountant for the Respondent

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

Final Order No. A/ 11915 /2023

DATE OF HEARING: 21.06.2023
DATE OF DECISION: 11.09.2023

RAMESH NAIR

The revenue filed this appeal against the impugned order passed by Learned Commissioner Service Tax, Ahmedabad whereby the proceedings initiated against the respondent vide show cause notice dated 20.04.2012 was dropped.

1.2 The brief facts of the case are that the respondent during period 2010-2011 provided service in relation to compression of natural gas at the premises of M/s. Gujarat Alkalies and Chemicals Ltd. The case of the department is that the activity of compression of natural gas was covered under the category of Business Auxiliary Service and the same is liable to service tax. Therefore, the present appeal was filed by the Revenue.

2. Shri Rajesh K Agarwal, Learned Superintendent (AR) appearing on behalf of the Revenue Appellant submits that as per the activity carried out by the Respondent i.e. compression of natural gas does not amount to manufacture therefore it amounts to provision of service of business auxiliary service accordingly the same is taxable therefore the adjudicating authority has erred in dropping the show cause notice by holding that the activity of compression of natural gas amounts to manufacture.

3. Shri Punit Prajapati, Learned Chartered Accountant appearing on behalf of the respondent take the support of the impugned order and submits that there is a clear chapter note 5 to chapter 27 which provides the compression of natural gas is amount to manufacture, therefore the Revenue's appeal has no substance therefore, the same be dismissed.

4. We have carefully considered the submission made by both sides and perused the records. We find that the adjudicating authority has dropped the demand of service tax on the ground that the activity carried out by the appellant amounts to manufacture in terms of note 5 to Chapter 27 of Central Excise Tariff. For ease of reference the said chapter note is reproduced below:-

"5. In relation to natural gas falling under heading 2711, the process of compression of natural gas (even if it does not involve liquefaction), for the purpose of marketing it as Compressed Natural Gas (CNG), for use as a fuel or for any other purpose, shall amount to 'manufacture'."

From the reading of the above chapter note it is clear that compression of natural gas is amount to manufacture and no condition was attached to the activity of compression therefore, the activity carried out by the appellant is indeed a manufacturing activity in terms of Section 2 (f) (ii) of Central Excise Act, 1944 read with chapter note 5 of Chapter 27 which mandates that the activity of compression of natural gas for the purpose of marketing it as Compressed Natural Gas(CNG) for use as a fuel or for any other purpose shall amount to manufacture.

5. Accordingly in our considered view, the Learned Commissioner has rightly dropped the proceeding of the show cause notice, therefore, we do not find any infirmity in the impugned order. Hence the same is upheld, Revenue's appeal is dismissed. Cross Objection also stands disposed of.

(Pronounced in the open court on 11.09.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

C.L.MAHAR
MEMBER (TECHNICAL)

Geeta