

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

REGIONAL BENCH- COURT NO.3

**Service Tax Appeal No.12044 of 2015**

(Arising out of OIA-SUR-EXCUS-001-COM-013-15-16 dated 30/07/2015 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

**Ssb Facility Management Service Pvt Ltd** .....Appellant  
7/4824, Shop No. 859-860, Japan Market, Near Belgium Square, Ring Road,  
Surat, Gujarat

*VERSUS*

**C.C.E. & S.T.-Surat-i** .....Respondent  
New Building...Opp. Gandhi Baug,  
Chowk Bazar,  
Surat, Gujarat-395001

**With**

**Service Tax Appeal No.12045 of 2015**

(Arising out of OIA-SUR-EXCUS-001-COM-013-15-16 dated 30/07/2015 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

**Ssb Facility Management Service Pvt Ltd** .....Appellant  
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New Building...Opp. Gandhi Baug,  
Chowk Bazar,  
Surat, Gujarat-395001

**APPEARANCE:**

None appeared for the Appellant  
Shri Dinesh Prithiani, Assistant Commissioner (AR) for the Respondent

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

**Final Order No. A/ 10683-10684 /2022**

DATE OF HEARING: 14.02.2022  
DATE OF DECISION: 10.06.2022

**RAMESH NAIR**

These appeals are directed against the common Order-in-Original No. SUR-EXCUS-001-COM-013-15-16 dated 30.07.2015 passed by the Commissioner of Central Excise, Customs & Service Tax, Surat -I. whereby the Commissioner has confirmed the service demand of Rs. 16,48,469/-

alongwith interest and penalty against the M/s Ssb Facility Management Service, and Service tax demand of Rs. 1,01,15,634/- along with interest and penalty against the M/s Ssb Facility Management Pvt. Ltd. As the issue involved in all the appeals is common and arise from common investigation, therefore, all are disposed of by a common order.

1.1 Briefly, the facts of the present case are that a search was carried out by the officers of Central Excise & Service tax at the premises of M/s Ssb Facility Management Services Pvt. Ltd. During the course of panchnama Shri Balwantbhai Patel, office in-charge, informed the officers that M/s Ssb Facility Management Services was a proprietorship firm and had obtained Service tax registration for providing taxable services. M/s Ssb Facility Management Services firm was being operated upto the year 2010-11 and in 2010-11 a new firm was started working from the same premises in the name of M/s Ssb Facility Management Services Pvt. Ltd. He informed the officers that they were not including the value of the materials supplied to the service receivers and accordingly not paying any Service tax on the cost of the materials supplied. They were not charging any VAT in the bills raised to the Service receivers. Summons were issued to Appellants to produce the documents and to give statement. However, Appellants failed to respond to the summons. On the basis of seized records and details available in ACES systems and Balance sheet revenue calculated the services tax liability. Accordingly, a show cause notice bearing F.No. V/ST/15-19/OA/2014-15 dated 09.10.2014 was issued to M/s Ssb Facility Management Service proposing the service tax demand alongwith interest and penalty. Revenue also issued show cause notice proposing service tax demand of Rs. 1,01,15,634/- alongwith interest and penalty to M/s Ssb Facility Management Services Pvt. Ltd. M/s Ssb Facility Management Services Pvt. Ltd. has also filed declaration under VCES declaring tax dues of Rs. 3,41,351/-. The revenue found that declaration filed by the Appellant was substantially false. Accordingly, a show cause notice vide F.No. IV/16/ST/VCES-576/13-14 dated 17.09.2014 was issued to M/s Ssb Facility Management Services Pvt. Ltd. proposing rejection of declaration and demand of service tax. In adjudication, Appellants neither filed reply to show cause notices nor attended the personal hearing. Thus, the aforesaid show cause notices were adjudicated by the impugned common order confirming

service tax demand proposed in the show cause notices. Being aggrieved thereof, Appellants filed present Appeals before this tribunal.

02. None appeared for the Appellants.

03. Shri Dinesh Prithiani, Learned Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

04. We have carefully considered the submission made by the learned Authorised Representative and perused the records. Ongoing through the grounds of appeals we find that the appellant's submission in the defence is that department has gravely erred in not allowing exemption and deduction claimed while arriving at final taxable value. Cleaning activities in respect of non-commercial building or premises is not taxable. The Government in its Departmental Instruction vide TRUs letter F.No. B1/6/2005-TRU dated 20.07.2005 has clarified that "cleaning service in respect of non-commercial building and premises thereof would not be covered within the purview of service tax under this category." Further Notification No. 9/2009-ST dated 03.03.2009, exempts the taxable services specified in clause (105) of Section 65 of the Finance Act, which are provided in relation to the authorized operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the whole of the Service tax leviable thereon under section 66 of the Finance Act. The demand of Service tax on material value supplied to the client during the impugned period was not justifiable. Service tax cannot be leviable on value of material supplied to the client. Notification No. 12/2003-ST dated 20.06.2009 provides exemption. They made declaration under VCES after considering the exemption and deductions.

4.1 We find that in impugned matter Appellants have not represented their case before the Learned Adjudicating Authority and therefore Learned Commissioner passed the ex-party order. In the interest of justice, we grant one more opportunity to the appellant to produce their claims and defence alongwith supporting documents related to exemptions and deductions before adjudicating authority who shall, after affording an opportunity of personal hearing to the appellants and verifying the exemptions and

deductions claimed by the Appellants pass an order within a period of three months from the date of this order. All the issues are kept open.

4.2 We therefore set aside the impugned order and allow the appeal by way of remand to the adjudicating authority to pass a *de novo* order after considering all the exemptions and documents /records to be submitted by the appellant before him. Needless to say that the appellant should be given sufficient opportunity to make their submission and documents, if any required, and also granting the personal hearing before *de novo* adjudication.

05. In view of the above, we set-aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order.

(Pronounced in the open court on 10.06.2022 )

**(RAMESH NAIR)**  
**MEMBER (JUDICIAL)**

**(RAJU)**  
**MEMBER (TECHNICAL)**

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