

**CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

COURT HALL - I

Service Tax Appeal No.40275 of 2022

(Arising out of Order-in-Appeal No. 11/2022 (CTA-II) dated 28.2.2022 passed by the Commissioner of GST & Central Excise (Appeals – II), Chennai)

M/s. Hyundai Motor India Ltd.

Appellant

Plot No. H-1, SIPCOT Industrial Park
Irugattukottai, Sriperumbudur Taluk
Kancheepuram – 602 117.

Vs.

Commissioner of GST & Central Excise Respondent

Chennai Outer Commissionerate
Newry Towers, 12th Main Road
Anna Nagar, Chennai – 600 040.

APPEARANCE:

Shri S. Muthuvenkataraman, Advocate for the Appellant
Shri M. Ambe, DC (AR) for the Respondent

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Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

Final Order No. 40340/2024

Date of Hearing : 22.03.2024

Date of Decision: 25.03.2024

Per P. Dinesha,

This appeal is filed against Order in Appeal No. 11/2022 (CTA-II) dated 28.2.2022 passed by the Commissioner (Appeals – II), Chennai and the only issue that arises for our consideration is “whether the Revenue authorities are justified in demanding service tax on the liquidated damages?”

2. Shri S. Muthuvenkataraman, learned Advocate appeared for the appellant and learned Shri M. Ambe, Deputy Commissioner (AR) defended the Revenue.

3. The learned Advocate would submit, at the outset, that the issue involved has already been addressed to by various CESTAT Benches and hence, the same is no more res integra. He would also refer to Circular No. 178/10/2022-GST dated 3.8.2022 to contend that compensation by way of liquidated damages does not attract service tax.

4. Per contra, the learned Deputy Commission relied on the findings of the Revenue authorities.

5. We have considered the rival contentions and perused the orders of the Revenue authorities. We find that the issue as contended by the learned Advocate, in the case on hand, has already been addressed to in M/s. South Eastern Coalfields Ltd. Vs. CCE & ST, Raipur reported in 2020 (12) TMI 912 – CESTAT, New Delhi and settled in favour of the taxpayer which has been followed in the following orders:-

- (i) Neyveli Lignite Corporation Ltd. v. Commissioner of Cus., C.Ex. & S.T. [2021 (53) G.S.T.L. 401 (Tri. – Chennai)]
- (ii) Steel Authority of India Ltd., Salem v. Commissioner [2021 (7) TMI 1092 – CESTAT, Chennai]
- (iii) South Eastern Coalfields Ltd. v. Commissioner of C.Ex. & S.T., Raipur [2021 (55) G.S.T.L. 549 (Tri. – Del.)]
- (iv) M.P. Poorva Kshetra Vidyut Vitran Co. Ltd. v. Principal Commissioner [2021 (2) TMI 821 – CESTAT, New Delhi]

- (v) Bharat Heavy Electricals Ltd. v. Commissioner of G.S.T. & C.Ex., Tiruchirappalli [2023 (4) TMI 1196 – CESTAT, Chennai] (Final Order No. 40311 of 2023 dated 4 Appeal No.: ST/40333/2021-DB 26.04.2023 – Service Tax Appeal No. 41500 of 2019 – CESTAT, Chennai)
- (vi) Dy. GM (Finance), BHEL v. Commissioner of Cus. & C.Ex., Bhopal [2022 (9) TMI 1005 – CESTAT, New Delhi] (Final Order No. 50879 of 2022 dated 20.09.2022 – Service Tax Appeal No. 50080 of 2019 – CESTAT, New Delhi)
- (vii) Bharat Heavy Electricals Ltd., Pswr v. Commissioner of C.Ex. & S.T., Nagpur [2023 (5) TMI 11 – CESTAT, Mumbai] (Final Order No. A/85628/2023 dated 26.04.2023 – Service Tax Appeal No. 85781 of 2019 – CESTAT, Mumbai)

6. Further, we find that vide Circular No. 214/1/2023-ST dated 28.2.2023, even the Board had accepted the view of the CESTAT and decided not to prefer appeals before the Hon'ble Supreme Court against CESTAT orders.

7. That being the situation, we are of the view that the service tax liability fastened on the appellant on the liquidated damages received does not survive and hence following the ratio of the orders cited supra, we set aside the impugned order and allow the appeal with consequential benefits, if any, as per law.

(Order pronounced in open court on 25.03.2024)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)