

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH - COURT NO. 3

SERVICE TAX Appeal No. 10616 of 2021-SM
[CROSS Application No.:-ST/CROSS/10425/2021]

[Arising out of Order-in-Original/Appeal No AHM-EXCUS-001-APP-03-2020-21 dated 04.06.2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SERVICE TAX - AHMEDABAD]

Commissioner of Service Tax, Ahmedabad

.... Appellant

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

VERSUS

Kiri Dyes And Chemical Limited

.... Respondent

Plot No. 299/1/A, Near Water Tank, Phase-Ii, Gidc
Vatva, Ahmedabad, Gujarat-382435.

APPEARANCE :

Shri R.R. Dave, Consultant Advocate for the Appellant
Shri Sanjay Kumar, Superintendent (AR) for the Revenue.

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

DATE OF HEARING : 10.02.2023

DATE OF DECISION: 23.03.2023

FINAL ORDER NO. A/10507 / 2023

RAMESH NAIR :

The issue involved in the present case is whether the appellant is liable to pay service tax on the service on Ocean Freight or otherwise.

2. Shri Sanjay Kumar, learned Superintendent (AR) appearing on behalf of Revenue/ Appellant submits that though this issue is decided by Hon'ble Gujarat High Court in the case of SAL Steel Limited but the Revenue has preferred SLP before the Hon'ble Supreme Court therefore, this matter may be kept pending till outcome of Hon'ble Supreme Court judgment.

3. Shri R.R. Dave, learned Consultant appearing on behalf of the respondent/ Assessee submits that learned Commissioner (Appeals)

following the judicial discipline by relying upon the Hon'ble Gujarat High Court in the case of SAL Steel Limited allowed the appeal of the respondent therefore, there is no infirmity in Order-in-Appeal and the Revenue's appellant is not maintainable. As regards the Revenue's contention that the Revenue's appeal is pending before the Hon'ble Supreme Court in the case of SAL Steel Limited, he submits that there is no stay against the Hon'ble Gujarat High Court order. He placed reliance on the Hon'ble Supreme Court decision in the case of *Union of India vs. Mohit Minerals Pvt. Limited – 2022 (61) GSTL 257 (SC)*.

4. I have carefully considered the submissions made by both the sides and perused the record. I find that the issue whether Ocean Freight/ Sea Transportation service is liable to service tax or otherwise has been decided by jurisdictional High Court of Gujarat in the case of SAL Steel Limited. As regards the Revenue's appeal pending before the Hon'ble Supreme Court against the aforesaid decision, I find that there is no stay against the said High Court judgment. In view of this position, I find no infirmity in the impugned order which was passed relying on the jurisdictional High Court judgment in the case of SAL Steel Limited. Accordingly, following the Hon'ble Gujarat High Court decision in the case of SAL Steel Limited, the impugned order is upheld and the Revenue's appeal is dismissed. Cross objection is also disposed of.

(Pronounced in the open court on 23.03.2023)

(Ramesh Nair)
Member (Judicial)