

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT NO. III

Service Tax Appeal No. 40450 of 2015

(Arising out of Order-in-Original No. 24/2014 (ST-COMMR.) dated 15.12.2014 passed by the Commissioner of Central Excise, No. 1, Foulk's Compound, Anai Road, Salem – 636 001

M/s. Perundurai Common Effluent Treatment Plant : Appellant
R-22, 6th Cross Road, SIPCOT Industrial Growth Centre,
Perundurai – 638 052

VERSUS

The Commissioner of Central Excise and Service Tax : Respondent
No. 1, Foulk's Compound, Anai Road, Salem – 636 001

APPEARANCE:

Shri K. Venkatesan, Learned Advocate for the Appellant

Shri R. Rajaraman, Learned Assistant Commissioner for the Respondent

CORAM:

HON'BLE MRS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 40106 / 2023

DATE OF HEARING: 01.03.2023

DATE OF DECISION: 03.03.2023

Order : [Per Hon'ble Mrs. Sulekha Beevi C.S.]

Brief facts of the case are that the appellant is a company registered under the Companies Act, 1956, being an association with 14 member units, engaged in the activity of treating effluents discharged from the member units. They also collected fixed cost and variable cost from each member unit by raising the bill for the quantity of effluent water discharged from these units. Apart from this, they also collected 10% amount on the fixed cost towards emergency / capital expenditure account, which would be utilized for meeting the emergency expenditure for treating the effluents.

2. It appeared to the Department that the above activity falls under the definition of "service" as per Section 65B (44) of the Finance Act, 1994; the appellant did not register themselves with the Department and did not discharge their Service Tax liability.

3. Show Cause Notice No. 41/2014 (ST) dated 22.04.2014 was issued for the period from July 2012 to March 2014 proposing to demand the Service Tax along with interest and also for imposing penalties. After due process of law, the Original Authority, vide order impugned herein, confirmed the demand of Service Tax along with interest and imposed penalty. Aggrieved by such order, the appellant is now before the Tribunal.

4.1 Learned Counsel Shri. K. Venkatesan appeared and argued on behalf of the appellant. It is submitted by him that the appellant-unit is situated in SIPCOT, Perundurai and is registered as a non-profit organization which is formed collectively by 14 textile processing units under a financial grant / subsidy from the Central / State Government; the effluent water generated by the member units is treated by the appellant and converted into usable water. After treatment, 90% of this treated water is supplied back to the units for captive industrial use. The appellant collects only the actual expenditure incurred for treatment of the effluent water and there is no profit distribution to the members.

4.2 He submitted that the demand for the period from 01.07.2012 to 31.03.2014 is covered by Notification No. 08/2017-S.T. dated 20.02.2017 issued under Section 11C of the Central Excise Act, 1944 read with the Finance Act, 1994.

4.3 He prayed that the appeal may be allowed.

5. Shri R. Rajaraman, Learned Authorized Representative for the respondent, supported the findings in the impugned order.

6. Heard both sides.
7. The issue to be decided in this appeal is whether the appellant is liable to pay Service Tax on the remuneration collected from the member units for the activity of treatment of effluent water.
8. The said activity has been exempted from the levy of Service Tax vide Notification No. 08/2017-S.T. dated 20.02.2017, which reads as under: -

"Notification No. 08/2017-Service Tax

New Delhi , the 20th of February , 2017

G.S.R. (E).- Whereas, the Central Government is satisfied that in the period commencing on and from the 1st of July 2012 and ending with the 31st of March, 2015 (hereinafter referred to as the said period) according to a practice that was generally prevalent, there was non levy of service tax, on the services by the operators of Common Effluent Treatment Plant by way of treatment of effluent and this service was liable to service tax , in the said period , which was not being paid according to the said practice . Now, therefore , in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the Finance Act, 1994 (32 of 1994), the Central Government hereby directs that the service tax payable on the said services by the operators of Common Effluent Treatment Plant, under section 66B of the Finance Act , 1994 but for the said practice, during the said period , shall not be required to be paid."

9. Since the activity is exempt from the levy of Service Tax as per the above Notification, we have no hesitation to hold that the demand cannot sustain and requires to be set aside, which we hereby do.

10. The impugned order is set aside.

11. The appeal is allowed with consequential reliefs, if any.

(Order pronounced in the open court on **03.03.2023**)

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sdd