CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Regional Bench - Court No. – I

Service Tax Appeal No. 30173 of 2020

(Arising out of Order-in-Original No.HYD-EXCUS-002-COM-031-19-20 dt.16.03.2020 passed by Principal Commissioner of Central Tax, Hyderabad)

Bharat Dynamics Ltd
Ministry of Defence, Kanchanbagh,
Hyderabad, Telangana – 500 058 **......Appellant**

VERSUS

Commissioner of Central Tax
Hyderabad - GST
GST Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004 **......Respondent**

Appearance:-

Shri Siddhant Indrajit, Advocate for the Appellant.
Shri M. Anukathir Surya, AR for the Respondent.

Coram: **HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30202/2025

Date of Hearing: 16.06.2025
Date of Decision: 16.06.2025

[Order per: A.K. JYOTISHI]

M/s Bharat Dynamics Ltd (hereinafter referred to as the appellant) are in appeal against OIO dt.16.03.2020 (impugned order), wherein, the Commissioner/adjudicating authority has confirmed the demand of service tax on account of liquidated damages (LD).

2. Learned Counsel for the appellant submits that the issue is no longer res integra as the demand of service tax on liquidated damages cannot be sustained. He is relying on the following case laws in support of his contention.

a) South Eastern Coal Fields Ltd Vs CCE & ST, Raipur [2021 (55) GSTL 549 (Tri-Del)]

b) Bharat Heavy Electricals Ltd Vs CCT, Medchal-GST [Final Order – A/30064/2025 dt.21.02.2025]
c) Sembcorp Energy India Ltd Vs CCT, Hyderabad – GST [2023 (385) ELT 245 (Tri-Hyd)]
d) Krishnapatnam Port Co Ltd Vs CCE & ST, Guntur [2023 (72) GSTL 259 (Tri-Hyd)]
e) Bharat Heavy Electricals Ltd Vs CCT [Final Order – A/30131-30132/2022 dt.14.09.2022]
f) Bharat Dynamics Ltd Vs CCT, Hyderabad [Final Order – A/30130/2022 dt.14.09.2022]
g) MP State Mining Corporation Ltd Vs Pr Commissioner, CGST & E, Bhopal [2023 (10) CENTAX 253 (Tri-Del)]

3. Learned Counsel further points out that this Bench has, in the case of Bharat Dynamics Ltd Vs CCT, Hyderabad (supra), passed an order in which they have allowed the appeal filed by the appellant by setting aside the demand.

4. Learned AR, on the other hand, points out that this issue is no longer res integra and the order passed by the Bench has already been accepted on merit by the department.

5. Heard both sides and perused the records.

6. The issue involved in this appeal is whether demand of service tax on LD/penalties recovered by the appellant under section 66E(e) of the Finance Act is legally correct or otherwise. There is no dispute that the demand is based on the LD received from their vendor/contractor, which the department had felt would be liable to service tax in terms of declared service under section 66E(e). However, in view of various citations including Steel Authority of India Ltd, Salem Vs CGST & CE [2021 (7) TMI 1092 (Chennai)] and South Eastern Coal Fields Ltd Vs CCE & ST, Raipur (supra), where under the similar facts and circumstances, the Tribunals have held that no service tax is payable on the amount collected towards LD as such LD/penalty cannot be considered as receipts towards any service, per se. Therefore, in view of the same, there is no leviability of service tax on the amount of LD collected by the appellant. We also find that in their own case this Tribunal, vide Final Order No. A/30130/2022 dt.14.09.2022, has allowed

the appeal of the appellant, who had come against the confirmation of demand of service tax on the amount received as LD.

7. Therefore, we do find that the Order passed by the adjudicating authority is not proper and legally tenable and accordingly, is set aside.

8. Appeal is allowed with consequential benefit, if any, as per law.

(Dictated and pronounced in the Open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Veda