

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No.60029 Of 2018**

[Arising out of OIA No.CHD-EXCUS-001-APP-78-17-18 dated 28.09.2017 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

**Daljeet Singh**

Prop. Daljeet Electroplating Works,  
Plot No.19B, Sector-2, Parwanoo,  
Solan, Himachal Pradesh-173220

**: Appellant**

*VERSUS*

**Commissioner of Central Excise  
And Service Tax, Shimla**

Commercial Parking Complex,  
Ground & First Floor, Chhota Shimla,  
Himachal Pradesh-171002

**: Respondent**

**APPEARANCE:**

Shri Shivang Puri, Advocate for the Appellant

Shri Shivam Syal, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER No.60423/2024**

DATE OF HEARING: 08.07.2024

DATE OF DECISION: 11.07.2024

**PER: P. ANJANI KUMAR**

The appellant, M/s Daljeet Singh, is engaged in the job-work of electroplating of filter components of motor vehicles on job-work basis for various manufacturers of auto parts; the appellant was collecting job charges and was paying the applicable VAT on the materials used by them in the job-work; Department was of the opinion that the activity performed by the appellants amounted to "Business Auxiliary Service" as per Section 65(19) of the Finance Act, 1994; a Show Cause Notice dated 21.10.2009 was issued to the appellants seeking to recover service tax of Rs.20,66,975/- along with interest and penalties and to appropriate service tax of Rs.2,41,709/-

paid by the appellants during the period 01.12.2006 to 31.03.2007; the proposals in the Show Cause Notice was confirmed by the Order-in-Original dated 28.02.2011; on an appeal filed by the appellant, learned Commissioner (Appeals) vide impugned order dated 28.09.2017 upheld the order of the Original Authority.

2. Shri Shivang Puri, learned Counsel for the appellants takes various arguments and submits that the impugned order is not sustainable for the following reasons.

- the activity of electroplating undertaken by the appellants amounts to manufacture in terms of Section 2F of Central Excise Act, 1944 and Section Notes to the Section 16 of Central Excise Tariff Act, 1985; Tribunal, in the case of Jindal Steel way Ltd. – 2014 (310) ELT 194, held that electroplating amounts to manufacture; as the activity amounts to manufacture, no service tax is payable on the same.
- It is not disputed that the activity undertaken by the appellants includes service and material; in view of the Apex Courts judgment, the job undertaken is of composite nature and therefore could not have been taxed before 1.6.2007.
- the appellant is covered under Notification 8/2005-ST as the good are received on job work basis and are returned the original manufacturer for further use/ clearance on payment of duty.
- the entire show cause notice is time barred; the issue involves interpretation of legal provisions and the issue of whether electroplating amounted to manufacture or not was settled by tribunal and the Apex Court; moreover, there is no suppression

of facts etc with intent to evade payment of duty and therefore extended period cannot be invoked.

3. Shri Shivam Syal, Learned Authorized Representative, for the Revenue, reiterates the findings of OIO and OIA.

4. Heard both sides and perused the records of the Case. Brief issue involves in this case is as to whether the appellants are required to pay Service Tax on the activity of electroplating, filter components of automobiles, supplied by the manufacturers of auto parts, on job work basis. Though the Learned Counsel for the appellants has put forth multiple arguments, we find that the issue is no longer *res integra* on merits. We find that Tribunal, in the case of Interplex Electronics India Pvt. Ltd. – 2013 (5) TMI 451- CESTAT Bangalore, held that electroplating amounts to manufacture. Tribunal observed that:

5.2 Further even before this section-note was introduced, this Tribunal had considered the issue as to whether electroplating amounts to manufacture or not in the case of Modison Metal Refiners (supra). In that case also, the Tribunal was considering the question as to whether electroplating of electrical contacts amounts to manufacture or not. This Tribunal taking note of the decision of the Hon'ble Supreme Court in the case of TISCO vs. UOI: 1988 (35) E.L.T. 605 (S.C.) had held that electroplating would amount to manufacture. On the other hand, we have briefly considered all the decisions taken note of by the Commissioner on this issue and we find that in none of the decisions the product under consideration were classifiable under Chapter 85 and none of the decisions took note or considered section note to Section XVI which has been brought to our notice by the learned counsel. Under these circumstances, we find that the decision of the Tribunal stated by the learned counsel covers the issue as to whether electroplating of electrical contacts by the appellant amounts to manufacture or not and therefore respectfully following the Tribunal's decision earlier and taking note of the section-note, we hold that the process undertaken by the appellant amounts to

manufacture and therefore they are not liable to pay service tax in view of the specific exclusion in the definition of business auxiliary service which provides that if the process amounts to manufacture, no service tax would be liable to be paid.

5. In view of the above, as the activity of electroplating amounts to manufacture, no service tax is payable on the same. To this extent, the impugned order is not sustainable and is liable to be set aside as the appeal on this issue alone, we are not inclined to go into the other submissions made by the learned Counsel for the appellants.

6. Accordingly, the appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in the open Court on 11/07/2024)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**