

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

REGIONAL BENCH - COURT No. III

Excise Appeal No.42030 of 2015

(Arising out of Order-in-Appeal No.165/2015 (CXA-I) dated 6.7.2015 passed by Commissioner of Central Excise (Appeals-I), No.26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai 600 034)

M/s.Taneja Aerospace and Aviation Ltd. Appellant
Belagondapalli, Thalli Road,
Methagondapalli
Hosur 635 114.

VERSUS

The Commissioner of CGST & Central Excise ... Respondent
Chennai Outer Commissionerate
No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040.

APPEARANCE :

Shri S. Durairaj, Advocate, for the Appellant
Shri Anoop Singh, Authorized Representative for the Respondent

CORAM :

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

FINAL ORDER No.40978/2024

DATE OF HEARING : 22.07.2024

DATE OF DECISION : 29.07.2024

Per: Ms. Sulekha Beevi. C.S

Brief facts are that the appellant is engaged in the manufacture of parts of aircrafts falling under Chapter 88 of CETA 1985. They cleared the said parts of aircrafts to M/s.National Aerospace Laboratories, Bangalore and M/s.Hindustan Aeronautics Ltd., Bangalore without payment of Excise duty by claiming the exemption under Notification No.10/1997-CE dated. 01.03.1997. It appeared to the Department that the appellant is not eligible for the exemption as per the above notification, for the reason that the goods manufactured and cleared by them does not fall under the goods specified for exemption under the said notification. Hence show cause notice dt. 04.06.2013 was issued for the period May 2012 to February 2013 proposing to demand duty, interest and for imposing penalties. After due process of law, the original authority confirmed the entire demand along with interest and imposed penalty. Aggrieved by such order, the appellant preferred appeal before the Commissioner (Appeals) who upheld the same. Hence this appeal.

2. Ld. Counsel Shri S. Durairaj appeared and argued for the Appellant. The Notification No.10/1997-CE dt. 01.03.1997, as amended, allows duty exemption for the following goods :

“1. (a) *Scientific and technical instruments, apparatus, equipment (including computers);*

(b) accessories and spare parts of goods specified in (a) above and consumables;

(c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches.

(d) Prototypes

that are required for research purpose and if supplied to a Public funded research institution or a university or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a Regional Engineering College, other than a hospital

with the condition that

(i) If the institution –

(a) is a public funded research institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and produces a certificate to that effect from an officer not below the rank of a Deputy Secretary to the Government of India in the concerned department to the manufacturer at the time of clearance of the specified goods; or

(b) is registered with the Government of India in the Department of Scientific and Industrial Research and the manufacturer produces at the time of clearance, a certificate from the Head of the institution in each case, certifying that the said goods are required for research purposes only.

(ii) The aggregate value of prototypes received by an institution does not exceed fifty thousand rupees.

2. Research institutions other than a hospital

(a) Scientific and technical instruments, apparatus, equipment (including computers);

(b) accessories and spare parts of goods specified in (a) above and consumables;

(c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches.

(d) Prototypes

with the condition that

(1) The institution –

(i) is registered with the Government of India in the Department of Scientific and Industrial Research;

(ii) Head of the Institution gives a certificate in each case of clearance of goods certifying that the said goods are essential for research purpose and will be used for the stated purpose only.

(2) The aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in a financial year.

(3) The goods falling under 1 and 2 above shall not be transferred or sold by the institution for a period of five years from the date of installation.”

2.1 The department was of the view that the goods manufactured by the appellants which are parts of air craft does not fall under 'scientific and technical instruments, apparatus, equipments (including computers), accessories and spare parts of goods and consumables, computer software, compact Disc-Read only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches and protoypes. The exemption has been denied alleging that the godos cleared by the appellants are only parts of air craft and does not meet the specifications prescribed in the notification and therefore not eligible for the exemption. Ld. Counsel adverted to the clarification issued by CBEC letter D.O.F. No.334/8/2016-TRU dated 29.2.2016 which reads as under :

“Notification No.10/97-C.E. dated 1.3.1997 grant exemption from excise duty to scientific and technical instruments, apparatus, equipment (including computers) and accessories, parts and consumables, supplied to specified institutions, subject to certification issued by the Head of the Research Institution that the said goods are essential for research purposes and will be used for the stated purpose only, and will not be transferred or sold by the institution for a period of 5 years from the date of installation and such institutions are registered with the Department of Scientific and Industrial Research (DSIR). Representations have been received seeking clarification as to whether the engineering goods such as switchboards, switchgears, electrical motors, automation products etc. are covered within the scope of the said notification. It is clarified that the scope of the exemption under notification No.10/97-Central Excise covers engineering goods also, subject to fulfilment of other conditions prescribed in the said notification.”

2.3 It is submitted that the scope of the notification covers “*engineering goods*”. The appellant has produced relevant certificate issued that the goods were supplied to M/s.National Aerospace Laboratories and M/s.Hindustan Aeronautics Ltd.

2.4 For subsequent periods, show cause notices were issued raising the very same issue and proposing to deny the benefit of Notification No.10/97. The Commissioner (Appeals) vide OIA No.90/2017 dt. 27.03.2017 and OIA No.100/2017 dt. 24.04.2017 has set aside the demand taking note of the Board’s clarification as above. The only reason put forward for denying the benefit of exemption is that the

goods are not specifically covered under the notification. It was held by the Commissioner (Appeals) that the goods which are parts of aircraft falling under Chapter 88 would be covered under the category of "engineering goods". The benefit of exemption notification was granted for the subsequent period from November 2014 to May 2015 and June 2015 to March 2016.

2.5 The Ld. Counsel also relied upon the decision in the case of **Jackson Generators Pvt. Ltd. Vs CCE Pondicherry** - 2014 (311) ELT 815 (Tri.-Chennai) wherein Diesel Generating sets were held to be eligible for exemption under Notification No.10/97.

2.6 The Tribunal in the case of **Autoprint Machinery Manufacturers (P) Ltd. Vs CCE Coimbatore** - 2010 (260) ELT 439 (Tri.-Mad.) held that very narrow interpretation cannot be considered placed on the expression of the word "equipment" to deny the exemption. The Tribunal held that the plea put forward alleging that the goods do not fall under expression 'equipment' considered was analysed and goods in the nature of "Auto print 1520 mini offset printing machine" cleared by the assessee to the Regional Engineering College, Warrangal, was held to be eligible for exemption. It is prayed that the appeal may be allowed.

3. Ld. A.R Shri Anoop Singh appeared and argued for the Department. The findings in the impugned order was reiterated.

4. Heard both sides.

5. The issue that arises for consideration is whether the appellant is eligible for the benefit of exemption Notification No.10/1997-CE. The main contention put forward by the appellant is that the Board vide circular dt. 29.2.2016 which has been reproduced above, has clarified that the engineering equipments would fall within the items which have been listed for exemption as per Notification No.10/97. It

is seen that the Commissioner (Appeals) for subsequent period has considered the very same issue and allowed the exemption observing that the goods which are in the nature of parts of air craft would fall under the category of "*Engineering Goods*". We do not find any grounds to take a different view We hold that the appellant is eligible for the exemption as per Notification No.10/1997-CE.

5. In the result, the impugned order is set aside. The appeal is allowed with consequential relief, if any.

(Order pronounced in the open court on 29.07.2024)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

(SULEKHA BEEVI. C.S)
Member (Judicial)