IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA
Court No.1

Service Tax Appeal No.70245 of 2013

(Arising out of Order-in-Original No.67/S.Tax/Commr./2012 dated 09.11.2012 passed by Commissioner of CGST & Central Excise, Jamshedpur)

M/s Eastern Transport Agency
(H.No.2,Rajendra Nagar Cooperative House Building Society, Sakchi,Jamshedpur-831001)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Jamshedpur
(143, New Baradwari, Sakchi, Jamshedpur-831001)

Respondent

Appearance:
Shri Abhijit Biswas, Advocate for the Respondent
Shri P.Das, Authorized Representative for the Appellant

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

DATE OF HEARING : 17 FEBRUARY 2026
DATE OF DECISION : 17 FEBRUARY 2026

FINAL ORDER NO.75259/2026

Per Ashok Jindal :

The appellant is in appeal against the impugned order demanding service tax under the category of "Cargo Handling Service".

2. The facts of the case in brief are that the appellant is engaged in providing shifting of various materials from one place to another within the factory premises of Tata Steel Ltd, Jamshedpur at its Jamshedpur Steel Works under specific work orders/agreements.

2.1. The jobs under the respective work orders involved transportation of materials, loading and unloading thereof while shifting of the various materials within the said Steel Works and other incidental work related thereto. These materials are mostly Ores and

Lime Stones, Hard Coke, Iron Ore Fines, Coke Breeze, Coal, etc. The transportations within the factory were/are effected mostly through dumpers with tipper body so as to unload the materials mechanically.

2.2 The work orders issued by Tata Steel distinctly specified two services, first, for loading and unloading of materials and second, transportation of the materials within the factory premises. The appellant raised bills separately upon Tata Steel for these activities.

2.3 In case of the amounts received in respect of loading and unloading of the materials, the appellant paid service tax thereon upon classifying the job rendered under "Cargo Handling Service" within the meaning of Section 65(23) of the Finance Act, 1994, being of the bona fide belief that such services was taxable under the Act.

2.4. In respect of the services of transportation of the materials, within the factory premises, carried out under the work orders, the same were classified under "Goods Transportation Agency Services by Road" under the Act on similar bona fide belief as in the case of loading and unloading job, and, as the service recipient, TSL paid the service tax thereon in terms of Rule 2(1)(d)(v) of the Service Tax Rules, 1994.

2.5. However, on December 23rd,2011, a show cause notice was issued by the Commissioner of Central Excise and Service Tax, Jamshedpur alleging that the appellant had allegedly short paid service tax during the period October 2006 to March 2011, inasmuch as although it had rendered composite service of cargo handling under the aforesaid work orders issued by TSL, the same were artificially split up in two parts and service tax was paid by the appellant under

cargo handling services, whereas claiming the other part has been covered by GTA services, although the essential character of the services provided under the said work orders was allegedly cargo handling and transportation was mere incidental to such services and therefore service tax was allegedly payable on the entire amount received as cargo handling services, which was not done by the appellant resulting in short payment of service tax of Rs.1,28,82,058/-, which amount the appellant was called upon to show cause should not be demanded and recovered from it under the Proviso to Section 73(1) of the Act, along with interest and as to why penalties should not be imposed upon the appellant under Sections 77 and 78 of the Act.

2.6. Upon the appellant replying to the said show cause notice and personal hearing thereafter being held by the Commissioner, an Order-in-Original dated November 9, 2012 was passed by the Commissioner, confirming the proposals made in the show cause notice, including the demand of alleged service tax short paid, along with interest thereon, and imposing penalty upon the appellant.

2.7 Being aggrieved by the said order dated November 9, 2012, the appellant has preferred an appeal against the same before the Tribunal, along with an application for dispensing with the requirement of predeposit of the tax and interest demanded and the penalty imposed and for stay of operation of the impugned order till the disposal of the appeal.

3. The ld.Counsel for the appellant submits that as there are two separate contract with the appellant, one for loading and un-loading of

materials, for which, the appellant has paid the service tax under "Cargo Handling Service" and another contract is for transportation of goods, on which, TSL, Jamshedpur, has paid the service tax under reverse charge mechanism. In that circumstances, no demand is sustainable against the appellant. Therefore, the impugned order is to be set aside.

4. On the other hand, the ld.A.R. for the Revenue, has supported the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that the issue in this case has been dealt with by this Tribunal in the case of Ferro Scrap Nigam Limited Vs. Commissioner of Central Excise & Service Tax, Bhubaneswar I reported in 2023 (7) TMI 1632-CESTAT-Kolkata, wherein this Tribunal has observed as under :

> *"6. Considering that in appellant's own case for the earlier period this matter came up before this Tribunal and this Tribunal has observed as under:-*
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> > *"6. We find that the issue already stands decided in favour of the Appellant with regard to the demand raised on shifting, transportation, loading and unloading from one place to another inside the steel plant of the client itself, the Tribunal in their own case as reported in 2014 (1) TMI 1051- CESTAT-New Delhi has observed that :-*
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> > *"7. In any case, we have seen the decision of the Tribunal as upheld by Hon'ble High Court in the case of Modi Construction Co. vs. CCE, Ranchi (supra), it stands clearly held by the Tribunal that service of shifting, transportation or raw materials, waste materials, and finished products from one place to another, inside the plant itself, does not fall under the taxing category of Cargo Handling Services. The activities undertaken by the appellant are admittedly within the plant itself. As such, we find that the ratio of the*

law declared by he Tribunal in the above referred matter, which also stands upheld by the Hon"ble Jharkhand High Court, is fully applicable to the facts of this case."

In view of the aforesaid, the issue is no longer res-integra, since decided in favour of the assessee. We do not find any reason to take a contrary view and therefore, the demand raised vide the impugned adjudication order cannot be sustained and hence, the same is set aside."

7. Further, we find that the said issue has been examined by the Hon'ble Jharkhand High Court in the case of Commissioner of Central Excise, Ranchi Vs. Modi Construction Company reported in 2011 (23) STR 6 (Jhar.) wherein the Hon'ble High Court has observed as under :

*"**3.** We have given our considered opinion to the submission of the learned counsel. As per sub-section 23 of Section 65 of the Act, cargo handling service means loading, unloading, packing or unpacking of cargo. This definition does not in any way can be considered to cover handling of goods within the factory premises because cargo, according to the dictionary meaning of the expression, means 'loaded or unloaded on a truck, aircraft and ship'.*

***4.** In that view of the matter, since the activity of shifting the goods finished and unfinished goods within the factory premises could not come within the definition of cargo handling service and, therefore, this kind of service activity could not be termed as service activity."*

8. In view of the above observations, we hold that the shifting of materials from one place to another place within the factory premises, does not fall under the category of "Cargo Handling Service".

Accordingly, on the said activity, no service tax is payable by the appellant under the category of "Cargo Handling Service".

9. Further, the service recipient has already paid the service tax under the category of "Goods Agency Service" under reverse charge mechanism, therefore, no service tax is sustainable against the appellant. Accordingly, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in the open Court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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