

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

REGIONAL BENCH – COURT No. I

Excise Appeal No. 41797 of 2017

(Arising out of Order-in-Appeal No. 212/2017(CXA-II) dated 26.04.2017 passed by Commissioner of Service Tax (Appeals-II), No. 26/1, Uthamar Gandhi Salai, Nungambakkam, Chennai - 600 034)

M/s. Best Cast IT Limited

Velappanchavadi,
Chennai – 600 077.

...Appellant

Versus

Commissioner of GST and Central Excise

Chennai North Commissionerate,
Newry Towers, No. 2054-I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

...Respondent

APPEARANCE:

For the Appellant : Mr. N. Viswanathan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40419 / 2026

DATE OF HEARING : 27.01.2026
DATE OF DECISION : 25.03.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal arises out of Order-in-Appeal No. 212/2017(CXA-II) dated 26.04.2017 passed by the Commissioner (Appeals-II), Chennai, whereby the order of the adjudicating authority confirming demand of duty along with interest and penalty was upheld. M/s. Best Cast IT Ltd,

Chennai (hereinafter referred to as "the appellant") is engaged in the manufacture of aluminium die-cast automotive components falling under Chapters 84, 85 and 87 of the Central Excise Tariff. For the manufacture of these components, the appellant develops moulds and dies based on designs and drawings supplied by their customers. After manufacture of the moulds and dies, the appellant raises invoices on the customers collecting the cost of such tools along with applicable excise duty and thereafter retains the moulds and dies in their factory for use in manufacturing components for those customers.

2. During the audit of the appellant's records, the department observed that moulds and dies supplied by customers free of cost and retained in the appellant's premises were used in the manufacture of aluminium castings, but the amortised cost of such moulds and dies was not included in the assessable value of the castings cleared to their customers. The department therefore took the view that the value of such tools constituted additional consideration flowing from the buyer and required inclusion under Rule 6 of the Central Excise Valuation Rules, 2000 read with Section 4 of the Central Excise Act, 1944. Consequently, a show cause notice was issued demanding differential duty of Rs. 4,17,684/- for the period May 2010 to

March 2015 along with interest and penalty by invoking the extended period under Section 11A of the Central Excise Act, 1944, which demand was confirmed and penalty imposed by the adjudicating authority and subsequently upheld by the Commissioner (Appeals).

3. Being aggrieved by the said order, the appellant has filed the present appeal before this Tribunal.

4. The Ld. Advocate Mr. N. Viswanathan, appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeal and the Ld. Authorized Representative Ms. Rajni Menon, appeared for the Revenue and defended the Impugned Order.

5. The contentions of the Ld. Advocate Mr. N. Viswanathan are summarized as below: -

5.1 The moulds and dies were manufactured by the appellant as per customer specifications and cleared on payment of excise duty by raising separate invoices. After such clearance, the tools were returned to the appellant by the customers for use in manufacturing castings. Therefore, according to the appellant, the duty liability on the moulds and dies had already been discharged.

5.2 Instead of undertaking the cumbersome exercise of amortizing the cost of moulds and dies for each casting, they chose to discharge the duty upfront on the entire cost of moulds and dies and did not avail Cenvat credit of such duty even though they were legally entitled to do so. According to the appellant, this method resulted in no loss of revenue to the department.

5.3 It was further argued that the issue had been earlier examined during CERA audit and departmental audit proceedings and the objections raised were dropped after the appellant explained their accounting and duty payment methodology. Therefore, according to the appellant, the extended period of limitation cannot be invoked.

5.4 The appellant relied upon a catena of decisions to contend that where the department had knowledge of the facts or where the issue had been previously examined in audit proceedings, the extended period cannot be invoked.

5.5 It was also argued that once duty has been paid on moulds and dies themselves, demanding duty again by amortizing their cost would amount to double taxation and would defeat the scheme of the valuation provisions.

6. The Ld. AR for the department reiterated the findings contained in the Order-in-Original and the Order-in-Appeal.

7. Upon hearing both sides and perusing the records, the following questions arise for determination:-

- i. Whether the amortized value of moulds and dies supplied free of cost by customers or retained in the appellant's factory is includible in the assessable value of aluminium die-cast components manufactured by the appellant under Rule 6 of the Central Excise Valuation Rules, 2000 read with Section 4 of the Central Excise Act, 1944, and,
- ii. Whether the extended period of limitation under Section 11A of the Central Excise Act, 1944 and the imposition of penalty are sustainable in the facts of the present case.

Issue No. (i) Whether amortised value of customer-supplied dies and moulds is includible in the assessable value of die-castings.

8. We observe that the appellant manufactures aluminium die-cast components using moulds and dies developed as per the specifications of their customers. Such moulds and dies constitute essential production tools and are ordinarily dedicated to the manufacture of components

required by particular customers. In industry practice, the cost incurred in the development of such moulds is recovered over the production life of the mould through the value of the components produced using them, a process commonly referred to as amortisation. In the present case, the moulds and dies were either supplied by customers free of cost or were manufactured by the appellant for those customers and retained in the appellant's premises for use in the manufacture of castings. The department has therefore taken the view that the cost of such moulds represents additional consideration flowing from the buyer and is required to be included in the assessable value of the finished goods.

9. We observe that the statutory provisions governing valuation of excisable goods are contained in Section 4 of the Central Excise Act. Under this provision the assessable value of goods is the transaction value when the price is the sole consideration for sale. However, when additional consideration flows directly or indirectly from the buyer to the manufacturer, the value of such additional consideration must also be included in the assessable value.

10. We note that the Central Excise Valuation Rules further elaborate this principle. Rule 6 specifically provides

that the money value of any additional consideration flowing directly or indirectly from the buyer shall be included in the assessable value of the goods. The explanation to this rule specifically refers to the value of tools, dies and moulds supplied by the buyer free of cost or at reduced cost for use in the production of the goods.

11. We observe that the statutory framework therefore clearly recognises that moulds and dies supplied by the buyer represent a form of additional consideration and their value must be included in the assessable value of the goods manufactured using those moulds.

12. We further note that the Central Board of Excise and Customs issued Circular No.170/4/96-CX dated 23.01.1996 clarifying the valuation of castings manufactured using moulds supplied by buyers. The circular explains that the cost of such moulds should be amortised over the expected production and the proportionate cost should be added to the assessable value of the castings. The circular emphasises that moulds supplied by the buyer represent an element of cost that contributes to the manufacture of the finished goods.

13. We observe that the appellant has argued that the moulds themselves were manufactured and cleared on payment of duty and therefore their value cannot again be included in the value of the castings. According to the appellant this would amount to double taxation.

14. We note that the appellant relied upon *CCE, Vs. Mega Rubber Technologies Pvt. Ltd. 2016 (343) ELT 384 (Tri.-Mum.)*, wherein the Tribunal held that inclusion of mould cost in the assessable value of finished goods was not justified in the particular facts of that case where the moulds had been cleared on payment of duty as independent excisable goods and ownership had passed to the customers. However, the said decision turned on its own factual circumstances. In the present case, the moulds and dies supplied by customers or retained in the appellant's premises are directly used in the manufacture of aluminium die-cast components for those customers and their cost forms part of the manufacturing cost of the finished goods. Per contra, the Revenue relied upon the Larger Bench decision in *Mutual Industries Ltd. vs CCE, Mumbai 2000 (117) ELT 578 (Tri.-LB)*, wherein it was held that moulds supplied by the buyer constitute additional consideration as they directly contribute to the manufacture of the goods and therefore their amortised cost, apportioned over the production obtained

from such moulds, is required to be included in the assessable value. In these circumstances, the decision in Mega Rubber Technologies Pvt. Ltd. is distinguishable and the principle laid down in Mutual Industries Ltd. is applicable to the present case.

15. We note that the decision in Mutual Industries has been consistently followed in subsequent decisions of the Tribunal. In *Vimal Moulders (India) Pvt. Ltd. vs CCE 2003 (161) ELT 834 (Tri.-Del.)* the Tribunal applied the same principle and held that moulds supplied by the buyer must be amortised and the proportionate cost included in the assessable value of the finished goods. We note that the decision in *Vimal Moulders (India) Pvt. Ltd. vs CCE 2003 (161) ELT 834 (Tri.-Del.)* was carried in appeal and the said view of the Tribunal was affirmed by the Hon'ble Supreme Court, thereby settling the legal position that the amortised value of moulds supplied by buyers forms part of the assessable value of the finished goods manufactured using such moulds.

16. We further observe that the Chennai Bench of the Tribunal had occasion to examine the very same issue in the appellant's own case in *Best Cast IT Ltd. vs Commissioner of GST & Central Excise, Chennai, 2023 (6)*

TMI 99 (CESTAT Chennai). We note that in the said decision the Tribunal held that the amortised cum-duty cost of moulds supplied by customers is required to be included in the assessable value of aluminium die-castings manufactured using such moulds. The Tribunal, while examining the contention of the appellant regarding alleged double taxation, specifically rejected the said argument and held that moulds and castings are distinct excisable goods and that payment of duty on moulds does not preclude inclusion of their amortised cost in the assessable value of the finished castings manufactured using those moulds. The Tribunal further observed that moulds constitute an essential production tool in the manufacture of die-cast components and that, if such moulds had been procured from the market, their cost would naturally form part of the cost of production of the finished goods. Accordingly, the Tribunal concluded that the amortised cost of such moulds is liable to be included in the assessable value of the castings manufactured using them. The said decision having been rendered by a coordinate Bench of this Tribunal on the identical issue concerning the same appellant, judicial discipline requires that the same view be followed in the absence of any distinguishing facts.

17. We therefore find that the Larger Bench decision in *Mutual Industries*, the Tribunal's decision in *Vimal Moulders* and the earlier decision in the appellant's own case clearly establish that the amortised value of moulds used in production must be included in the assessable value of the finished goods.

18. Following the ratio laid down in the above judicial precedents and applying the provisions of Section 4 read with Rule 6 of the Valuation Rules, we hold that the amortised value of dies and moulds supplied by customers or manufactured for customers and used in the manufacture of aluminium die-castings is includible in the assessable value of the finished goods.

Issue No. (ii): Whether the demand is barred by limitation and whether penalty under Section 11AC of the Central Excise Act is sustainable

19. We now proceed to examine the issue relating to limitation as well as the consequential liability to penalty under Section 11AC of the Central Excise Act. We observe that the appellant has contended that the extended period of limitation invoked in the present proceedings is not sustainable as the department was fully aware of the relevant facts relating to valuation of the goods manufactured by the appellant. The appellant submitted that

the accounting methodology followed in respect of moulds and dies as well as the valuation of the finished die-castings was duly reflected in their statutory records including cost records, invoices and other production documents maintained under the Central Excise law. It was further submitted that these records had been examined by the departmental officers during departmental audit as well as CERA audit on earlier occasions also and therefore the department cannot subsequently invoke the extended period of limitation on the ground of suppression of facts.

20. We observe that reliance was placed by the appellant on the decision of the Hon'ble Supreme Court in *Nizam Sugar Factory vs CCE, 2006 (197) ELT 465 (SC)*, wherein it was held that when the department is already aware of the relevant facts through earlier proceedings or audit verification, invocation of the extended period of limitation is not justified. In the present case, the material on record indicates that the appellant's accounting treatment of moulds and the valuation methodology adopted by them was available in their statutory records which had been examined during departmental and CERA audit earlier also. In such circumstances it cannot be said that the appellant suppressed material facts from the department or that there was any deliberate attempt to evade duty.

21. We also note that the dispute involved in the present case essentially concerns interpretation of valuation provisions relating to inclusion of amortised cost of moulds and dies in the assessable value of the finished goods. Where the issue relates to interpretation of statutory provisions and the relevant facts are disclosed in statutory records available to the department, the element of deliberate suppression necessary for invoking the extended period cannot be attributed to the appellant.

22. We further observe that penalty under Section 11AC of the Central Excise Act can be imposed only when the non-payment or short payment of duty arises by reason of fraud, suppression of facts or wilful misstatement with intent to evade duty. The Hon'ble Supreme Court in *CCE vs Dai Ichi Karkaria Ltd., 1999 (112) ELT 353 (SC)*, recognised that disputes relating to valuation or credit which may have revenue implications do not automatically give rise to an inference of intention to evade duty. In the present case, the relevant facts were reflected in statutory records and were available to the department during audit proceedings. Therefore, the ingredients necessary for imposition of penalty are not present.

23. In view of the above facts and the legal principles laid down by the Hon'ble Supreme Court in the decisions cited above, we find that the extended period of limitation has not been correctly invoked in the present case. Consequently, the demand can be sustained only for the normal period of limitation as prescribed under Section 11A of the Central Excise Act, 1944.

24. Since the ingredients necessary for invoking the extended period of limitation are absent, the penalty imposed under Section 11AC of the Central Excise Act is also not sustainable and is liable to be set aside.

25. In view of the foregoing discussion we hold that the amortised value of dies and moulds supplied by customers and used in the manufacture of aluminium die-castings is includible in the assessable value of the finished goods.

26. However, the demand beyond the normal period of limitation is not sustainable and the demand is therefore restricted to the normal period of limitation. Consequently, the penalty imposed on the appellant is set aside.

27. Thus, the appeal is partly allowed to the extent indicated above, with consequential relief(s), if any, as per law.

(Order pronounced in open court on 25.03.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

MK

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