CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 25817 of 2013
(Arising out of **Order-in-Appeal** No.260 / 2012 (H-IV) S.Tax dated 19.11.2012 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

M/s Agarwal Global Steels Ltd., .. **APPELLANT**
Survey No.724 & 725,
Opp. IDPL,
Sunsip Compound,
Balanagar,
Hyderabad,
Telangana – 500 037.

VERSUS

Commissioner of Customs, Central Excise and Service Tax Hyderabad - IV .. **RESPONDENT**
Posnett Bhavan,
Tilak Road,
Ramkote,
Hyderabad,
Telangana – 500 001.

APPEARANCE:
Shri P. Sai Makrandh, Advocate for the Appellant.
Shri V. Srikanth Rao, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30169/2026

Date of Hearing: 09.12.2025
Date of Decision: 01.04.2026

[ORDER PER: ANGAD PRASAD]

M/s Agarwal Global Steels Ltd., (hereinafter referred to as appellant) are in appeal against the Order-in-Appeal dated 19.11.2012 whereby, the demand of Rs. 6,02,741/- has been upheld.

2. The issue, in brief, is that the appellant are engaged in providing transport services and are having Service Tax registration under the category of "Transport of service by road". The demand has been raised on the grounds that they had not paid proper Service Tax in respect of certain

charges collected by them from their customer towards loading charges / loading service. The Department felt that the said activity would be classifiable under 'Cargo Handling Service' (CHS) falling under Section 65(23) of the Finance Act. The Adjudicating Authority relied on the definition of Cargo Handling Service which, inter alia, provided for inclusion of incidental activities like loading, unloading, packing etc. The Adjudicating Authority relying on certain judgments held that the activity of loading and unloading falls within the scope of CHS. It was his view that assessee being a dealer of excisable goods was also providing the service relating to the Cargo Handling and also charged for said services to the recipient separately.

3. The Learned Advocate for the appellant has mainly contested that the loading service, per se, cannot be under the category of CHS. His first argument is that the said handling under the CHS is restricted to handling of "cargo" and not that of "goods" till the time amendment was made in 2008 and there's been not cargo. Therefore, mere loading of material on trucks cannot be classified under CHS and relied on the CBEC Circular F. No. B/1/2002-TRU dated 01.08.2002, wherein, the board had clarified that the provisions were covering only such Cargo Handling Agencies which undertakes the activities such as packing, loading and unloading, whereas, their case the appellant is using their own salary paid labour. He has relied on the following case laws in support of his submissions:

(i) Commissioner of Service Tax, Ranchi Vs M/s HEC Ltd., [2018 (3) TMI 19 – CESTAT Kolkata]

(ii) M.s Narendra Civil Line Project & Contractor (P) Ltd., Vs Commissioner of Customs Excise & Service Tax, Jabalpur [2022 (8) TMI 470 – CESTAT New Delhi]

(iii) Arkay Logistics Lts., Vs CCE & ST, Surat – I [2023 (4) TMI 213 – CESTAT Ahmedabad affirmed vide CCE & ST – Surat – I Vs Arkay Logistics Ltd., [2024 (4) TMI 60 – SC Order]

(iv) M/s Hindustan Steelworks Construction Ltd., M/s Visakha Constructions Vs Commissioner of Central Excise & Service Tax, Visakhapatnam – I [2025 (11) TMI 1443 – CESTAT Hyderabad]

4. Further, without prejudice to above argument, he has submitted that the demand is for period 2006-07 to 2010-11 whereas, during the period 2006-07, they had not even crossed the threshold for exemption limit of Rs. 10lakhs, as prescribed and hence entitled to exemption and no Service Tax were required to be discharged for that period. He has also argued on the grounds of invocation of extended period as well as imposition of penalty as there was a reasonable belief for them not to pay the said Service Tax, as other traders under the identical situation and with similar business, were also not paying Service Tax. He has relied on the judgment of Honourable Karnataka High Court in the case of Commissioner of Service Tax, Bangalore Vs Motor World [2012 (27) S.T.R. 225 (Kar.)] for seeking relief under Section 80 of Finance Act.

5. The Learned AR reiterates the findings of the Commissioner (Appeals).

6. Heard both the sides and perused the records.

7. The core issue to be decided is whether in this case, the activity of loading of cut iron etc., on the truck for transportation to customer's premises would be covered within the ambit of Cargo Handling Service (CHS) in the given factual matrix. Learned Advocate has mainly contested that prior to 2008, CHS covered only "cargo" and not "goods" and only after the said amendment, both goods and cargo were covered under the CHS. In these, it was still in the nature of goods at the time of loading and therefore not covered under CHS. He has also submitted that they did not pay Service Tax as the said activity was not leviable to Service Tax, being an incidental activity to their sale of goods. He also requested for relief under Section 80

of Finance Act 2012, as it existed during material time as they had reasonable cause for not paying Service Tax on the said activity of loading during the material time.

8. We find that in so far as merit is concerned, the goods which were loaded on to the truck were clearly in the nature of cargo as they were intended for transportation to the destination of the buyer and therefore this plea is not tenable and said activity has been rightly classified under cargo handling service, even for the period prior to 2008. We have also examined the case laws cited by the appellant. In the case of Commissioner of Service Tax, Ranchi Vs M/s HEC Ltd., supra, it was, inter alia, held that these activities were related to transportation of goods by road service and that is not the issue in the present appeal. Similarly, in the case of M/s Narendre Civil Line Project & Contractor (P) Ltd., supra, is clearly distinguished as the activities weren't considered as taxable, being this mining area. In the case of Arkay Logistics Ltd., supra, again the same activities were happening within the factory premises and hence held that it cannot be taxed, which is not the case in the present appeal. Even in the case of M/s Hindustan Steelworks Construction Ltd., M/s Visakha Constructions, supra, the activities were held as mere transportation in view of its being handled within the factory premises or plant. Therefore, the case laws relied upon by them is not relevant to the present factual matrix. We, therefore, hold that on merit they were liable to pay Service Tax on the loading charges, both before and after the amendment of the definition of CHS in the factual matrix of the case.

9. In so far as waiver of penalties under Section 80 of Finance Act 1994, we find that the argument taken by the appellant is that they had reasonable cause for not paying the Service Tax. We find that they were already into the

activity of transportation of goods service by road and for which they were having proper Service Tax registration. However, they had bonafide belief that while loading the said material on the truck, the said stand alone activity could not have been subject to taxation under CHS as they were not loading cargo. Further, they also had the impression that as other trading loading under similar circumstances has not been paying Service Tax for similar activity, they also need not pay. Though, for this belief there is no evidence adduced by the appellant, we find that there were other issues also which could have been the reasons for having a bonafide belief that they were not required to discharge Service Tax liability separately on the loading charges, as there were judgments supporting this view that mere loading of goods etc could not be an activity covered under CHS. Further, they were paying VAT on sale of goods and therefore, they felt that they said loading would be relatable to sale and cannot be subjected to Service Tax. In this regard the reliance placed by the appellant on the judgment of Hon'ble Karnataka high Court, supra, for waiver under Section 80 merits consideration. The Hon'ble High Court examined the scope of Section 76, 77, 78 and 79 and held that if reasonable cause for such failure to pay can be established then the authorities can waive such penalties in view of the provision under Section 80 of the Finance Act, even if ingredients are present to invoke Section 78. We find that in the given factual matrix they had sufficient cause for failing to pay Service Tax under bonafide belief that the said activity is not chargeable to Service Tax. Hence the penalty under Section 77 and 78 are not imposable in term of Section 80.

10. Thus, demand is upheld on merit, however, penalty under Section 77 & 78 are set aside in terms of Section 80 of Finance Act.

11. To sum up:

a) Demand is upheld on merit and to that extent the order of Commissioner (Appeals) is upheld.

b) Penalty under Section 77 and 78 is set aside and to that extent order of the Commissioner (Appeals) is modified.

12. Appeal allowed partly.

(Pronounced in the open court on 01.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha