

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench – Court No. – I

Service Tax Appeal No. 26793 of 2013

(Arising out of Order-in-Original No.01/2013-Adjn. (Commr) ST dt.28.02.2013 passed by
Commissioner of Central Tax, Central Excise & Service Tax, Hyderabad-IV)

M/s Teena Labs Ltd

Plot No.41, SV Co-op, Industrial Estate,
Bachupally (V), RR Dist., Hyderabad – 500 072

.....Appellant

VERSUS

**Commissioner of Central Tax
Medchal - GST**

Posnett Bhawan, Tilak Road, Ramkoti,
Hyderabad, Telangana – 500 001

.....Respondent

Appearance

Shri S. Thirumalai, Advocate for the Appellant.
Shri M. Anukathir Surya, AR for the Respondent.

**Coram: HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30258/2026

Date of Hearing: 05.01.2026
Date of Decision: 30.04.2026

[Order per: A.K. JYOTISHI]

M/s Teena Labs Ltd (hereinafter referred to as the appellant) are in appeal against the OIO dt.28.02.2013 (Impugned Order).

2. The brief facts of the case are that the appellants were engaged in business of manufacture of bulk drugs and formulations. They entered into an agreement with M/s Aurobindo Pharma Ltd (APL) to manufacture their product in appellant's manufacturing facility on job work basis. As per the job work agreement, the consideration for the job work activity consisted of conversion charges @ Rs.23 lakhs per month for the first 12 months and @ Rs.25 lakhs per month for the remaining 12 months and also that in case actual conversion charges exceeded the fixed payment, APL was liable to pay the balance amount. Further, the appellants were also getting reimbursed certain expenses incurred by them by APL towards power, fuel, water, filter pads, maintenance of machinery in connection with job work

services provided to APL. The department felt that the activity would be covered under 'Renting of Immovable Property Services' (RIPS) under section 65(105)(zzzz) of the Finance Act, 1994. The department, after going through the agreement, inter alia, felt that APL had approached the appellant for utilizing part of its facilities for a contract period for the manufacture of some of their products through conversion work basis. It was also noticed that certain clauses indicated that the agreement was for exclusive use of the said premises of the appellant by APL for carrying out the said operations. In other words, the department felt that the entire premises, plant, land and building facilities of the appellant were exclusively allocated on monthly lump sum payment to APL.

3. The appellants, essentially, made various submissions including that they were engaged in the conversion work for manufacturing specified goods on job work basis in accordance with standards and specifications of APL and while the raw material for job work was supplied by APL, the job work activity was undertaken by the workers employed by the appellant. They also submitted that, as is apparent from the definition of 'Business Auxiliary Service' (BAS) under section 65(19) which covers any service provided in relation to, inter alia, production or processing of goods for, or on behalf of, the client, but it does not include, inter alia, any activity that amounts to 'manufacture' within the meaning of clause (f) of section 2 of the Central Excise Act, 1944. The adjudicating authority has mostly analyzed the provisions and conditions of the agreement to conclude that the appellants had to exclusively use the facility for manufacture of goods of APL and that APL was not paying conversion charges but rent towards the use of appellant's premises for using various facilities available in the factory such as land, plant and machinery and other facilities. He also observed that besides monthly charges, they were also paying extra charges for salary of employees of the appellant besides expenses incurred for power, fuel and water, etc.

4. Learned Advocate for the appellant has submitted that it is an admitted position that finished goods were being cleared by the appellant after conversion under job work procedure. It is also an admitted position that the activity being undertaken by them was amounting to manufacture, though they were not discharging Central Excise duty in terms of the extant

provisions regulating clearance of job worked goods. He has also relied on the following case laws in support that when the activity is amounting to manufacture, it cannot be subjected to service tax.

- a) JB Mangharam Foods Pvt Ltd Vs Pr. CCGST & CE [2025 (6) TMI 122 – CESTAT New Delhi]
- b) Bagga Distilleries Hyderabad Pvt Ltd Vs CCT, Hyderabad-I [2024 (4) TMI 394 – CESTAT Hyderabad]
- c) Jubilant Industries Ltd Vs CCE, Ghaziabad [2013 (31) STR 181 (Tri-Del)]
- d) Meena Agency Ltd Vs CCE & ST, Rajkot [2023 (11) TMI 372 – CESTAT Ahmedabad]
- e) Gujarat Insecticides Ltd Vs CCE & ST, Surat-II [2023 (2) TMI 781 – CESTAT Ahmedabad]
- f) Balaji Storage Batteries Ltd Vs CCE & ST, Shimla [2025-VIL-2038-CESTAT-CHD-ST]

5. Insofar as leviability of service tax on the reimbursed amount, he has relied on the judgment of Hon'ble Supreme Court in the case of UOI & Anr. Vs M/s Intercontinental Consultants & Technocrats Pvt Ltd [2018 (3) TMI 357 (SC)]. He has also submitted that in the facts of the case, extended period of limitation is not sustainable and penalties under both section 76 & 78 of the Act cannot be imposed simultaneously.

6. On the other hand, learned AR has mainly contested that the scope of entry clearly shows that this was a factory, which has been rented out by the appellants to APL and the nature of so called 'job work charges' is also not what normally is taken by a job worker as it is split into both fixed as well as reimbursable expenses and that it is not a pure job work and it is more akin to renting out of factory premises to APL. He has also submitted that the case laws cited by the appellants are distinguished in the facts of the case.

7. Heard both sides and perused the records.

8. The core issues to be decided in this case are, as under.

- a) Whether it is a case of manufacturing activity and therefore, not leviable to service tax or otherwise.

- b) Whether reimbursable expenses are to be included in the gross value leviable to service tax or otherwise.
- c) Whether extended period is invocable or otherwise.

9. Insofar as first issue is concerned, we find that there is no dispute that the activity being undertaken by the appellant as a job worker amounts to manufacturing as they are manufacturing excisable goods. However, the issue whether the said activity would be classifiable under RIPS or BAS needs to be examined. According to the learned Advocate for the appellant, under BAS as defined under section 65(19)(e), we find that this entry specifically covers production or processing of goods for or on behalf of the client but it also provides for exclusion of such activity of production or processing of goods for or on behalf of the client if the said activity amounts to manufacture within the meaning of (f) of section 2 of the Central Excise Act, 1944. We find that the adjudicating authority has not disputed that there was no job work agreement or that the activity was being carried out by the appellant themselves as an independent manufacturer. The adjudicating authority has relied on various terms and conditions of the agreement and we have also perused the same. These terms and conditions clearly provide that the appellant would undertake conversion and will provide workers and pay their salaries. They are also required to adhere to certain standards as per pollution control and other applicable laws, etc. they were also refrained from undertaking any other manufacturing activity for any other client and were to carry out only the work entrusted by APL to them. Thus, what is apparent is that there is an effective control on production process, quality control, etc., however, it cannot be said that APL has taken over the entire facility of the appellant on rent along with machinery, manpower, raw material, associate services, etc. The mode of payment is based on various factors including reimbursement of certain expenses, however, it is also apparent that manpower belonged to the appellant, who is paying salary, though they were also getting reimbursed for that also. Normally, in the pharmaceutical industry, there is a concept of loan license, where another manufacturer manufactures medicine for the license holder and is paid lump sum amount towards conversion charges. In some cases, the basic ingredients and active ingredients are supplied by the principal manufacturer to the job worker for conversion. In this model, it is improper to allege that the entire factory has been taken on rent by the

principal manufacturer, who is manufacturing the goods and the owner of the factory i.e., job worker has no role, whatsoever, in the conversion of said goods.

10. We find that reliance placed by the appellant on the case of JB Mangharam Foods Pvt Ltd (supra) is relevant, where the Tribunal, inter alia, held that when the contract itself recognizes the arrangement between the parties as job work agreement, such activity has to be considered as an activity of manufacture and production of goods on job work basis and it was not a case of renting of factory premises. We also note that in this case, there is no agreement between the appellant or APL in relation to renting of immovable property. We also find that job work charges, per se, are exempt from the service tax under BAS as defined under section 65(1)(v) and therefore, such job work, which is otherwise covered under the category of BAS would still exclude any such activity if that amounts to manufacture of excisable goods. In other words, production or processing of goods for, or on behalf of, another is a taxable service, however, if such production or processing of goods amounts to manufacture, then such activity would be excluded from the scope of levy of Service Tax. We also find that in the case of Bagga Distilleries Hyderabad Pvt Ltd (supra), wherein, similar issue was examined as to whether the appellant was responsible for the manufacture/producing IMFL under the brands belonging to their customer in their own distillery using their own manpower and other overheads, the Tribunal held that services provided by the appellant to principal manufacturer are for contract manufacturing of IMFL.

11. The adjudicating authority has also examined the component and scope of conversion charges paid by APL to the appellant in support that they are towards rental of the entire factory along with plant and machinery, etc. We find that there is a clear provision for payment of consideration, which provides that appellant will get conversion charges from APL for the actual job work done on approval of end products by quality lab of the appellant. Therefore, the nature of payment of conversion charges is not determinative of the fact that it was in the nature of rent, as held by the adjudicating authority. The adjudicating authority felt that such mode and method of payment is contrary to the rate contract, which is generally prevalent in job work arrangements. We, however, note that in this case, it

has also been agreed upon by the appellant and APL that in case actual conversion charges incurred by the appellant exceeds the agreed amount, APL will be liable to pay the appellant such excess amount and therefore, it is apparent that said conversion charges are not fixed amount and can increase based on actual expenses incurred by the appellant during the manufacturing process. We also find force in the reliance placed by the learned Advocate on the judgment of Hon'ble High Court of Chhattisgarh in the case of *Ambalal Chauhan Vs CCE & ST [2020 (33) GSTL 187]*, wherein, it was held that the course adopted for charging, invoicing or accounting does not by itself determine the nature of the service provided and it was, inter alia, held that it is the nature of transaction, which will be material for the purpose of classification and not the form of transaction between the parties. Learned Advocate has also relied on the judgment of Hon'ble Supreme Court in the case of *Senairam Doongarmall Vs CIT [1961 (42) ITR 392]*, wherein, inter alia, it was held that it is the quality of the payment that is decisive of the character of the payment and not the method of payment or its measure.

12. We have also perused the judgment of the Coordinate Bench in the case of *Jubilant Industries Ltd (supra)*, wherein, it was held that processes amounting to manufacture cannot be considered as manufacturing and subjected to Excise duty and also be considered as service and subjected to service tax and it is because of this, the process of manufacture has been specifically kept outside the purview of Business Support Services. The relevant para is cited below.

"13. We are in agreement with the contention that the same activity cannot be considered as manufacturing and subjected to excise levy and at the same time considered to be a service and subjected to service tax. This principle does not need much discussion and is also recognized under Section 65(19) of Finance Act, 1994 levying service tax on processing of goods not amounting to manufacture. Process amounting to manufacture is kept specifically out of the scope of the entry. That being the case such an activity cannot be brought under service tax levy under "Business Support Service" because the underlying principle will apply to this entry also. The specific exclusion is not seen under 64(104c) for the reason that the legislature intended to deal with the issue under Section 65(19). We find that Revenue is also not disputing the position that manufacturing activity cannot be subjected to service tax. Revenues contention is that what JLSL was doing was manufacturing and what appellant (earlier known as PMSL) was doing was support services."

13. Therefore, we find from the perusal of the terms and conditions of the agreement that there is no understanding or intention between the appellant

and the APL to take the said facility of the appellant on rent and pay rent. On the contrary, it is an agreement for conversion of raw material and to manufacture excisable goods for or on behalf of APL. The activity undertaken by the appellant is admittedly amounting to manufacture and leviable to Central Excise duty. However, they are not paying Central Excise duty by following the provisions and procedure provided to job worker for clearance of job work goods to the principal manufacturer without payment of Central Excise duty. We also find force in the submission that department has tried to levy service tax on reimbursable expenses, which has been paid by APL to appellant by bringing said expenses also under the category of rent. We find that in terms of the judgment in the case of Intercontinental Consultants & Technocrats Pvt Ltd (supra), the reimbursable expenses, per se, cannot be subjected to service tax.

14. Therefore, in view of discussion above, we find that in this case, in the given factual matrix, the activity cannot be brought under the category of RIPS and service tax is not payable. At best, the activity being undertaken by the appellant could have been covered under BAS, however, as it is amounting to manufacture, it gets excluded from this also. Thus, no service tax is payable. Since the matter is decided on merit itself, penalties will also not sustain.

15. Accordingly, the impugned order is set aside and the appeal is allowed.

(Pronounced in the Open Court on 30.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)