CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85138 of 2017

(Arising out of Order-in-Appeal No. PK/74/M-III/2016 dated 27.10.2016 passed by the Commissioner of Central Excise (APPEALS-II)/ Mumbai Zone-II)

Crompton Greaves Ltd. **.... Appellant**
(Transformer Division-T1)
Kanjur Marg (East),
Mumbai – 400 042.

Versus

Commissioner of Central Excise, Mumbai – III **.... Respondent**
4th Floor, Vardaan Trade Centre,
MIDC, Wagle Indl. Estate,
Thane (West) – 400 604.

APPEARANCE:

Shri Kiran Chavan, Advocate for the Appellant

Shri Rajiv Ranjan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85849/2026

Date of Hearing: 02.07.2026
Date of Decision: 02.07.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants are engaged *inter alia*, in the manufacture of 'Transformers', falling under Chapter Heading 8504 of the First Schedule to the Central Excise Tariff Act, 1985. The appellants clear the said goods from the factory premises on payment of central excise duty on the transaction value. At times, as per the request made by their customers, the appellants conduct the "Type Test" of the transformers and separately claim the charges for such testing from the customers. The

Department had alleged that the cost of type test charges, collected from the customers separately, should be included in the transaction value of transformers and Central Excise duty liability was required to be discharged. On such undertaking, a Show Cause Notice (SCN) dated 29.10.2015 was issued by the Department, seeking confirmation of the Central Excise duty from the appellant. The said SCN was adjudicated by the Additional Commissioner of Central Excise, Mumbai-II vide the Original Order dated 18.04.2016, wherein the proposals made in the SCN were confirmed. On an appeal against the said adjudication order dated 18.04.2016, the learned Commissioner (Appeals) vide the impugned order dated 21.10.2016 has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order dated 21.10.2016, the appellants have preferred this appeal before the Tribunal.

3. The issue involved in the present appeal for consideration by the Tribunal is, whether the appellants are required to pay the Central Excise duty on the charges collected for "type test" of transformers undertaken pursuant to the contracts with the customers. We find that the issue arising out of the present dispute is no more open for any debate, in view of the Final Order No. 85619/2026 dated 30.04.2026 passed by the Co-ordinate Bench of the Tribunal, in the case of the appellants themselves. The said order was passed for the earlier period from April 2014 to September 2014. The present proceedings initiated by the Department is for the period January 2015 to March 2015. Since the issue involved in the Final Order dated 30.04.2026 is entirely identical to the facts involved in the present appeal, we are of the view that the stand taken in the order dated 30.04.2026 by the Co-ordinate Bench of the Tribunal should be followed in the present case. The relevant paragraphs recorded in the order dated 30.04.2026 are extracted herein below: -

> *"5. It is further evident that the "type test" is not a mandatory or routine test forming part of the manufacturing process. Rather, it is conducted only in specific cases where customers, for their own satisfaction or due to lack of testing facilities, request the appellant to undertake such testing prior to dispatch. The cost of such testing is borne separately by such customers. Significantly, the test is not conducted on each transformer, but only on selected units on a random basis, clearly indicating its optional and customer-specific nature.*

6. In these circumstances, the "type test" cannot be regarded as an activity incidental or ancillary to the completion of manufacture. Nor can it be said to be a condition precedent for the marketability of the transformers. The activity is undertaken post-manufacture, at the behest of the buyer, and for a separate consideration.

7. It is a settled principle of valuation under the Central Excise Act, 1944 that only such amounts which are intrinsically linked to the manufacture and sale of the goods, and form part of the consideration for sale at the time and place of removal, can be included in the assessable value. Charges for optional, post-manufacturing activities, undertaken at the request of the buyer and not as a condition of sale, do not form part of the "transaction value".

8. In the present case, the "type test charges" are clearly in the nature of consideration for a distinct and optional service rendered to the customer after the completion of manufacture. This position is further reinforced by the admitted fact that the appellant has been discharging service tax on such charges, treating the same as a taxable service.

9. We also find that the issue is no longer res integra. In the appellant's own case, in Excise Appeal No. 86716 of 2015 and connected matters, this Tribunal vide Final Order Nos. 86090-86092/2024 dated 01.10.2024, and again in Excise Appeal No. 87943 of 2017 vide Final Order No. 86756/2025 dated 03.11.2025, has considered an identical issue and held that "type test charges" are not includible in the assessable value of transformers. The said decisions, rendered on identical facts, have attained finality and are binding in the absence of any contrary decision. The relevant paragraphs of Final Order No. 86756/2025 (supra) are extracted hereunder: -

"xxx xxx xxx

4. We find that the Tribunal had indeed, in the case of the appellant itself, considered the validity of inclusion of the charges so recovered for an earlier period and, relying upon the decision of the Tribunal in Ericsson India Pvt Ltd v. Commissioner of Central Excise, Pondicherry [2007 (212) ELT 198 (Tri-Chennai)] and the ratio of the decision of Hon'ble High Court of Karnataka in Essar Telecom v. Union of India [2012 (275) ELT 167 (Kar)], held that

'8. In re Ericsson India, it has been held that

'9. We have carefully gone through the records and considered the submissions made by both sides. In the instant case, the appellants had imported various equipment comprising the Transmission Apparatus for Radio Telephony network such as MSC, BSC and BTS and installed the same at various locations spread over several districts. The adjudicating authority has found that the Mobile Switching Centre, the Base Station Controller and the Base Transceiver Station imported by Aircel installed in several districts in the State by ECPL are excisable goods. It was admitted by the appellants that components of the system were movable goods, but could not be moved as their alignment was software specific in relation to their relative locations in the network. If the network was considered to be a complete equipment the same could not be considered a movable item as the same could be moved only by dismantling the network. In such cases, the item could not be considered to be movable as decided by the Apex Court in the case of Triveni Engineering & Industries Ltd. (supra). We are not in a position to accept this claim as it is an

undisputed position that the components had been tested after assembly in a network/system before they had been dismantled and exported to India. We find that what the appellants had done was to install and commission the Transmission Apparatus for Radio Telephony with the components imported. They had paid Service tax for the said activity. Therefore, tax cannot be charged under the Central Excise Act on the same activity. As per the submissions of the appellants, the article decided to be excisable comprises MSCs, BSCs and BTSs. No MSC or BSC is situated in the jurisdiction of the adjudicating authority. This claim is not contested by the Department. Hence the adjudicating authority was not competent to decide installation/assembly of several equipments as constituting manufacture when critical components of that system were situated outside his jurisdiction. In the circumstances, we find that the impugned order is devoid of merits. Accordingly we set aside the impugned order and allow the appeals.'

9. Learned Authorised Representative has relied upon the decision of Commissioner of Central Excise v. Cera Boards and Doors [2020 (373) ELT 794 (SC)]. The dispute therein was in the context of clearance prior to the revision in section 4 of Central Excise Act, 1944 with effect from 1st July 2000; we find that there is no justification for collection of duties of central excise on the consideration realised for an activity which has been subjected to levy under the Finance Act, 1994.'

5. In the light of above, the demand and detriments in the impugned order are set aside to allow the appeal"

10. Following the ratio of the aforesaid decisions and in view of the factual and legal position discussed above, we hold that the "type test charges" recovered by the appellant are not includible in the assessable value of the transformers for the purpose of levy of central excise duty."

4. In view of the above, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellants. Therefore, the impugned order is set aside and appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha