

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

CENTRAL EXCISE APPEALS NO: 3 OF 2021

Appeal filed under Section 35G of Central Excise Act, 1944 against the Order dated 11-02-2020 the Final Order No. A/30875/2020 on the file of the Customs, Excise & Service Tax Appellate Tribunal, Regional Bench, Hyderabad, preferred against the Order passed in Order-in-Original No. 26/2009-ST dated 31-03-2009 on the file of the Commissioner of Customs, Central Excise & Service Tax, Hyderabad-II Commissionerate, Hyderabad.

Between:

M/s. Pooja Marketing Agencies, Plot No. 400, Road No.14, Banjara Hills,
Hyderabad, Rep. by its Proprietrix Smt. Parmeet Kaur Bagga

...Appellant

AND

The Commissioner of Customs & Central Excise, Hyderabad II
Commissionerate, 7th Floor, Shulk Bhavan, Basheerbagh, Hyderabad

...Respondents

Counsel for the Appellant : Mr Venkatram Reddy Mantur

Counsel for the Respondent : ---

The Court delivered the following Judgment :

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CENTRAL EXCISE APPEAL No.3 of 2021

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. M.Venkataram Reddy, learned counsel for the appellant.

2. Heard on the question of admission.

3. This appeal under Section 35G of the Central Excise Act, 1944, is directed against the order dated 11.02.2020 in Service Tax Appeal No.609 of 2009 passed by the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad (hereinafter referred to as, "the Tribunal").

4. Facts giving rise to filing of this appeal briefly stated are that the appellant is engaged in the business of providing services of liasioning with Andhra Pradesh Beverages Corporation Limited (APBCL) on behalf of entities in the business of liquor manufacturing. On the basis of specific intelligence, an investigation was carried

out by the Department in which it was found that the appellant was rendering business of auxiliary services to M/s. Shaw Wallace Distilleries Limited, M/s. Shah Wallace & Company Limited, M/s. Gemini Distilleries (H) Private Limited and M/s. Hindustan Dorr-Oliver Limited in the form of sales promotion agency. It was found that the appellant had not registered itself with the Department for payment of service tax and was not making payment of any service tax. According to the Department, the appellant had contravened the provisions of Sections 68, 69 and 70 of the Finance Act, 1994 (hereinafter referred to as, "the Act").

5. Thereupon, a show cause notice dated 17.10.2008 was issued to the appellant demanding a sum of Rs.52,82,725/- as service tax on the service charges/remuneration received during the period from 01.07.2003 to 31.03.2005 under the proviso to Section 73 of the Act. By the aforesaid notice, the interest under Section 75 of the said Act was also demanded from the appellant and the appellant was also asked to show cause

as to why penalty under Sections 76, 77 and 78 of the Act be not imposed on it.

6. The Commissioner of Customs, by an order dated 31.03.2009, confirmed the demand. Being aggrieved, the appellant filed an appeal. The Tribunal by an order dated 11.02.2020 has dismissed the appeal.

7. Learned counsel for the appellant submitted that the Tribunal ought to have appreciated that the services rendered by the appellant cannot be treated as business auxiliary services and therefore substantial question of law arises for consideration in this appeal.

8. We have heard the learned counsel for the appellant and have perused the record.

9. The Tribunal, *inter alia*, has held that the business auxiliary services at the relevant period included the services related to promotion or marketing or sale of goods produced or provided by or belonging to the client. The agreements which have been entered into by the appellant clearly state that it has been employed as promoter of the products of its clients. It has further been found that the

appellant is required to promote and market the goods to the sole customer, namely APBCL. The Tribunal after taking into account the provisions of the agreement, which has been extracted in paragraph 10 of its order, has recorded the finding that the services rendered by the appellant are business auxiliary services. The aforesaid finding is a finding of fact which has been arrived at by the Tribunal by assigning valid and cogent reasons. The aforesaid finding of fact cannot be termed as perverse.

10. For the aforementioned reasons, no substantial question of law arises for consideration in this appeal.

11. In the result, the appeal fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Customs, Excise & Service Tax Appellate Tribunal, Regional Bench, Hyderabad
2. The Commissioner of Customs, Central Excise & Service Tax, Hyderabad-II Commissionerate, Hyderabad
3. One CC to Mr Venkatram Reddy Mantur, Advocate [OPUC]
4. Two CD Copies

VA/gh



HIGH COURT

DATED:09/12/2024

JUDGMENT

CEA.No.3 of 2021



DISMISSING THE CEA

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19/12/24
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