

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad**

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 10049 of 2019 - DB

(Arising out of OIA-CCESA-SRT-APPEAL-PS-330-2018-19 dated 31/08/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Hamon Shriram Cottrell Pvt Ltd

Shed No A-1-7, Plot No 83-84,
Gidc, Umbergaon,
Valsad, Gujarat

.....Appellant

VERSUS

Commissioner of C.E. & S.T.-Surat-I

New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat, Gujarat- 395001

.....Respondent

APPEARANCE:

Shri Prakash Shah & Shri Suyog Bhawe, Advocate for the Appellant
Shri Anoop Kumar Mudvel, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU**

Final Order No. 11777/2024

DATE OF HEARING: 18.04.2024
DATE OF DECISION: 14.08.2024

RAMESH NAIR

This appeal is directed against the Order-In-Appeal No. CCESA-SRT-APPEAL-PS-330-2018-19 dated 31.08.2018 passed by the Learned Commissioner (Appeals) Central Excise, Customs and Service Tax, Surat-I whereby the demand of Service Tax was confirmed on the ground that the value of service was booked as 'Foreign Currency Expenditure' in the appellant's books. Therefore, the Revenue is of the view that this amount was paid to the foreign person against the receipt of taxable service.

2. Shri Prakash Shah, Learned Counsel with Shri Suyog Bhawe Advocate appearing on behalf of the appellant at the outset submits that out of the

total management fees of Rs. 2,86,51,605/- paid an amount of Rs. 1,43,25,803/- was paid to M/s Hamon & CIE (International) based in foreign country paid in foreign currency on which the service tax was paid under VCES Scheme. As regard the remaining of Rs. 1,43,25,803/- , the same was paid to M/s Shriram EPC Ltd. in India in Indian currency on which M/s Shriram EPC Ltd has discharged the service tax. The demand was raised only on the ground that the total amount of Rs. 2,86,51,605/- was booked as foreign currency expenditure. It his submission that the amount paid to M/s Shriram EPC Ltd was inadvertently included and shown as foreign currency expenditure, whereas the same was not paid to M/s Hamon & CIE (International) and accordingly, is not liable to service tax.

3. Shri Anoop Kumar Mudvel, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of record, we find that both the lower authorities have assumed that total amount shown as foreign currency expenditure in the financial statement of the appellant is an amount paid to foreign service provider, therefore, the total amount is liable to payment of service tax. However, on behalf of the appellant, it was vehemently argued that the amount of Rs. 1,43,25,803/- was neither paid to M/s Hamon & CIE (International) nor in foreign currency, the same was paid to M/s Shriram EPC Ltd in India in Indian rupees on which M/s Shriram EPC Ltd has discharged service tax. It is his submission that the total amount was inadvertently shown as foreign currency expenditure. However, the fact is that an amount of Rs. 1,43,25,803/- was neither paid to the foreign person nor in foreign currency. In this position, we are of the clear view

that the amount of Rs. 1,43,25,803/- which was paid to M/s Shriram EPC Ltd in Indian Rupees is not liable for payment of any service tax. However, both the lower authorities have not taken pain to verify the actual transaction, they have gone merely on the nomenclature i.e. foreign currency expenditure shown in the appellant's books of account. To know the actual nature of transaction, the documents such as ledgers, Vouchers, invoices, payment particulars, etc. can be verified to bring the fact on record that whether this amount was paid to M/s Hamon & CIE (International) in foreign currency or paid to M/s Shriram EPC Ltd in Indian Rupees. On verification, if it is found that the amount is paid to M/s Shriram EPC Ltd in Indian rupees, as submitted by the appellant, the same is not liable to service tax. Accordingly, for the limited purpose of verification of the actual nature of transaction, the matter needs to be remanded to the adjudicating authority.

5. Therefore, we set aside the impugned order and remand the matter to the adjudicating authority to decide a fresh in the light of our observation made herein above.

(Pronounced in the open court on 14.08.2024)

**(RAMESH NAIR)
MEMBER (JUDICIAL)**

**(RAJU)
MEMBER (TECHNICAL)**