

2010-TIOL-443-CESTAT-MAD

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI**

Appeal No.S/241/2008

Arising out of Order-in-Appeal No.76/2008 SLM (ST) Dated: 30.07.2008
Passed by the Commissioner of Customs and Central Excise (Appeals), Salem

Date of Decision: 26.11.2009

M/s CHEMPLAST SANMAR LTD

Vs

COMMISSIONER OF CENTRAL EXCISE, SALEM

Appellant Rep by: Shri V S Manoj, Adv.

Respondent Rep by : Ms. Indira Sisupal, JDR

CORAM : Jyoti Balasundaram, VP

Service Tax – Separate legal entity – Scope of levy – In the context of service tax liability, different units of a corporate entity will not make them separate legal entities for the purpose of leviability to service tax and when one renders service to oneself service tax is not leviable. (Para 2)

Appeal allowed

Case laws referred :

1. *Government Ceramic Service Centre, Cannanore Vs Collector of Central Excise, Cochin - 1983 (13) E.L.T. 1215 (C.E.G.A.T.) Referred (Para 2)*
2. *Precot Mills Ltd. Vs Commissioner of Central Excise, Tirupati (2006-TIOL-818-CESTAT-BANG) Followed (Para 2)*
3. *Indian Oil Corporation Ltd. Vs Commissioner of Central Excise, Patna (2007-TIOL-994-CESTAT-KOL) Followed (Para 2)*

FINAL ORDER NO. 1843/09

The liability to service tax on 'testing services' carried out by the assessee situated at Mettur Dam to their Karikal unit has been upheld by the authorities below who have also imposed penalties upon the assessee.

2. I have heard both sides. I find that the authorities below have relied upon the decision of the Tribunal in *Government Ceramic Service Centre, Cannanore Vs Collector of Central Excise, Cochin [1983 (13) E.L.T. 1215 (C.E.G.A.T.)]* to hold that the Mettur Dam unit is a separate legal entity from the Karikal unit of the assessee. However in the context of service tax liability, the Tribunal has held in *Precot Mills Ltd. Vs Commissioner of Central Excise, Tirupati 2006-TIOL-818-CESTAT-BANG* that different units of a corporate entity will not make them separate legal entities for the purpose of leviability to service tax and

when one renders service to oneself service tax is not leviable. The above decision has been followed in *Indian Oil Corporation Ltd. Vs Commissioner of Central Excise, Patna* [2007 (8) S.T.R.527 (Tri.-Kolkata)] = [2007-TIOL-994-CESTAT-KOL](#).

3. Following the ratio of the above decisions, I set aside the impugned order and allow the appeal.

(Dictated and pronounced in open court)