

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

**WEDNESDAY, THE THIRTEENTH DAY OF NOVEMBER
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: 25 OF 2024

Central Excise Appeal filed under Section 35G of the Central Excise Act, 1944 against the Order dated 07.02.2024 passed in Final Order No. A/30074/2024 in Service Tax Appeal No. 3085 of 2012 on the file of the Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad against the Order dated 07.08.2012 passed in OIO No. 40/2012-Adjn (Commr) ST on the file of the Commissioner of Customs and Central Excise, Hyderabad-IV Commissionerate.

Between:

The Principal Commissioner of Central Tax, GST Bhavan, H.No.1-98 / 7 / 43,
VIP Hills, Jaihind Enclave, Madhapur, Hyderabad, Telangana -500 081.

...Appellant

AND

M/s. Spandhana Sphoorty Financial Ltd., Plot No.79, Care Crystal, Vinayak
Nagar, Gachibowli, Telangana - 500 001.

...Respondent

Counsel for the Appellant : Ms. Bokaro Sapna Reddy, Senior SC for CBIC)

Counsel for the Respondent : None appeared

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.25 of 2024

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

Ms. Bokaro Sapna Reddy, learned Senior Standing counsel for Central Board of Indirect Taxes and Customs appears for the appellant (hereinafter referred to as 'the Revenue'.

2. Heard on the question of admission.
3. This appeal under Section 35G of the Central Excise Act, 1944 (for short 'the Act') has been filed by the Revenue against order dated 07.02.2024, passed by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'the Tribunal'), in Appeal No.ST/3085/2021.

4. Facts giving rise to filing of this appeal briefly stated are that the respondent (hereinafter referred to as 'the assessee') is engaged in micro finance business and provides individual loans, small business loans *etc.* The assessee is registered as non-banking financial institution and is entitled to carry on the business without accepting public deposits. The assessee, as part of its business, precloses the loan accounts of the borrowers *i.e.*, before expiry of the loan term. The assessee received an amount of Rs.35,64,15,174/- as interest on preclosure loans.

5. A show cause notice dated 11.10.2011 was issued to the assessee invoking the period of limitation. The service tax payable on the amounts collected for preclosure of the loan accounts was Rs.3,81,69,738/- for the period from 2006-07 to 2010-2011, which was worked out by the Revenue.

6. The Tribunal, in para 7 of the impugned order dated 07.02.2024, has held as follows:

‘Considering the rival contentions, we find that the issue herein is no longer *res integra*. The same has been considered by the Larger Bench of this Tribunal in the case of **CST, Chennai vs Repco Home Finance Ltd.** [2020 (42) GSTL 104 (Tri-LB)], wherein the issue before the Larger Bench was whether service tax is payable on the ‘foreclosure charges’ collected by the Appellant from their customers under the category ‘banking and other financial services’

Reference was answered by the Larger Bench in Para 54 as follows:

“Foreclosure charges collected by the banks and non-banking financial companies on premature termination of loans are not leviable to service tax under ‘banking and other financial services’ as defined under Sec. 65(12) of the Finance Act.”

7. Learned Standing Counsel for the Revenue fairly submitted that the decision in **CST, Chennai** (*supra*) has

attained finality as the same could not be challenged as the same was below monetary limit. It is further submitted that the issue involved in this appeal is pending consideration before the Gujarat High Court.

8. In the decision rendered by the Larger Bench of the Tribunal in **CST Chennai** (supra), it was held that the assessee is not required to pay service tax on the foreclosure charges. The appeal has been allowed by the Tribunal in the light of the Larger Bench decision of the Tribunal in **CST Chennai** (supra). The impugned order dated 07.02.2024, passed by the Tribunal neither suffers from any infirmity nor the findings recorded by the Tribunal can be termed to be perverse. Therefore, no substantial questions of law arise for consideration in this appeal.

9. The Appeal fails and is hereby dismissed. No costs.

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As a sequel, miscellaneous petitions, pending if any,
stand closed.

Sd/- T. SRINIVAS
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad.
2. The Commissioner of Customs and Central Excise, Hyderabad-IV Commissionerate, Hyderabad.
3. One CC to Ms. Bokaro Sapna Reddy, Senior SC for CBIC, Advocate [OPUC]
4. Two CD Copies

Njb



HIGH COURT

DATED:13/11/2024

JUDGMENT

CEA.No.25 of 2024



**DISMISSING THE CEA
WITHOUT COSTS**

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24/11/24
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