CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH - COURT NO.II

Service Tax Appeal No.70221 of 2023

(Arising out of Order-In-Original No.GZB-EXCUS-000-APP-111-22-23, dated -30/12/2022 passed by Commissioner, CGST, Meerut)

M/s Macht Technologies Pvt. Ltd. **.....Appellant**
(D-137,Site-1, B.S. Road, Industrial Area
Ghaziabad, Uttar Pradesh 201009)

VERSUS

Commissioner of Central Excise, **....Respondent**
(C.G.O. Complex-II, Kamla Nehru Nagar,
Near Hapur Chungi, Ghaziabad, Uttar Pradesh 201002)

<u>APPEARANCE:</u>
Absent for the Appellant
Ms. Chitra Srivastava, Authorized Representative for the Respondent

CORAM: **HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

FINAL ORDER NO<u>.-70164/2025</u>

DATE OF HEARING : 26.03.2025
DATE OF DECISION : 26.03.2025

<u>SANJIV SRIVASTAVA:</u>

This appeal is directed against the Order-In-Original No.GZB-EXCUS-000-APP-111-22-23, dated -30/12/2022 passed by Commissioner, CGST, Meerut. By the impugned order Commissioner Appeal has upheld the Order-In-Original No.10/Asst.Comm/Macht/Div-V/GZB dated 28.06.2021 by which following has been held:-

"ORDER

1. I hereby confirm demand of Service Tax of Rs. 5,371/- (Service Tax Rs.5,118+Swachh Bharat Cess Rs. 145 +KrishiKalyanCess Rs.118) under Section 73 (1) of the Finance Act, 1994 read with Section 142 and 174 (2) of Central Goods & Service Tax Act, 2017.

2. I hereby order for recovery of Interest on the amount mentioned above at (1) from them under Section 75 of the finance Act, 1994 read with Section 142 and 174 (2) of Central Goods & Service Tax Act, 2017.

3. I hereby impose a penalty of Rs. 5371/- (Rupees five thousand three hundred seventy one only) equal to the amount of Service Tax evaded, under section 78 of the Finance Act, 1994 read with Section 142 and 174 (2) of Central GST Act, 2017

4. I hereby confirm demand of Service Tax amounting to Rs.23,879/-(Service Tax Rs.22,303/- +Swachh Bharat CessRs.797 Swachh Bharat CessRs.779/-) (Rupees twenty three thousand eight hundred seventy nine only) not paid on GTA Services under proviso to Section 73 (i) of the Finance Act, 1994 read with Section 142 and 174(2) of CGST Act, 2017.

5. I hereby order for recovery of Interest on the amount mentioned above at (4) from them under Section 75 of the finance Act, 1994 read with Section 142 and 174 (2) of Central Goods & Service Tax Act, 2017.

6. I hereby impose penalty of Rs.23,879/- (Rupees twenty three thousand eight hundred seventy nine only) equal to the amount mentioned above at sl no (4) under section 78 of the Finance Act, 1994 read with Section 142 and 174 (2) of CenAAtral GST Act, 2017

7. I hereby impose penalty of Rs.1,00,000/- (Rupee One Lakh only) under Rule 7C of the Service Tax Rules 1994 read with Section 70 of the Finance Act read with Section 142, and 174 (2) of Central GST Act, 2017 on M/s Macht Technologies Private Limited, D-137, Site-1, B.S. Road Industrial Area Ghaziabad for failure to file ST-3 Returns."

2. The notice for hearing sent to the Counsel for the Appellant has been returned back undelivered with remark incomplete address.

3. Taking into account the low amount involved in the matter which is less than 02 lakhs. The appeal is not maintainable in terms of Section 35(B)(6) which is reproduced below:-

Section 35B. Appeals to the Appellate Tribunal. -

(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order -

(a) a decision or order passed by the [1] [Principal Commissioner of Central Excise or Commissioner of Central Excise] as an adjudicating authority;

(b) an order passed by the [2] [Commissioner (Appeals)] under section 35A;

(c) an order passed by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) (hereafter in this Chapter referred to as the Board) or the Appellate [3] [Principal Commissioner of Central Excise or Commissioner of Central Excise] under section 35, as it stood immediately before the appointed day;

(d) an order passed by the Board or the [4] [Principal Commissioner of Central Excise or Commissioner of Central Excise], either before or after the appointed day, under section 35A, as it stood immediately before that day:

[5] [***Provided*** *…., -*

(a) .;
(b) ;
(c) ;
(d) ;

Provided *further that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c)or clause (d) where -*

(i) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
(ii) the amount of fine or penalty

determined by such order, does not exceed [7] [two lakh rupees];

4. As the total amount involved in the appeal is Rs 1,58,500/- (Rs. 5,371 + Rs 23,879 (service Tax inclusive of cess) + Rs 5371 + Rs 23,879 (Penalty under Section 78) + Rs. 1,00,000 (Penalty under Rule 7C of the Service Tax Rules 1994 read with Section 70 of the Finance Act, 1994) which is less than Rs. 2,00,000/-, I am not inclined to admit this appeal for consideration and decision in terms of the above provision.

5. Appeal filed by the Appellant is dismissed as not admitted.

(Dictated & pronounced in court)

Sd/-
(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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