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

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 12881 of 2018-DB

(Arising out of OIA-VAD-EXCUS-001-APP-288-2018-19 dated 30/08/2018 passed by Commissioner (Appeals), Central Excise, Customs and Service Tax-Vadodara-I)

Centre For Operation Research & Training ...... Appellant
4th Floor, Woodland Apartment,
Race Course,
Vadodara, Gujarat

VERSUS

Commissioner of C.E. & S.T.-Vadodara-I ......Respondent
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat- 390007

APPEARANCE:
Shri Saurabh Dixit, Advocate for the Appellant
Shri H P Shrimali, Superintendent (AR) for the Respondent

CORAM:
HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10518/2025

DATE OF HEARING: 09.06.2025
DATE OF DECISION: 09.06.2025

SOMESH ARORA

M/s. Centre for Operation Research & Training, Vadodara holding Service Tax registration No. ABBPK9607MST001 were providing services to Society for Operations, Research and Training (SORT) by way of supply of manpower such as Computer Programmer, Research Assistant, Field investigator, Office attendance, etc. During the period from 2012-13 to 2015-16, they recovered an amount of Rs. 28,81,758/- from the above service recipient but the appellant neither declared the above value in their ST-3 returns of the respective period nor paid the service tax. As per the department, this amounted to rendering of service on which appellant were liable to pay service tax of Rs. 3,56,185/-. Accordingly, show cause notice dated 31.05.2017 was issued. The said show cause notice was adjudicated vide order dated 26.02.2018 wherein the adjudicating authority confirmed the service tax of Rs. 3,56,185/- alongwith interest besides imposition of penalty of Rs. 1,63,477/- under Section 78 of the Finance Act, 1994 for the period from April, 2012 to April, 2015 and penalty of Rs. 29,231/- under Section 78 of the Finance Act, 1994 for the period May, 2015 to March, 2016. The appellant filed an appeal before the Commissioner (Appeals) who vide impugned order dated 30th August, 2018, rejected their appeal and confirmed the order of the lower authority. Hence, the present appeal.

2. During hearing, learned Advocate argued that the reimbursements were not liable to service tax in view of decision of Hon'ble Supreme Court in the case of Intercontinental Consultants and Technocrats Pvt. Ltd reported in 2018 (10) GSTL 401 (SC) and it is only the period from 14th May, 2015 to March, 2016 which is debatable in this case. Even for this period also, he vehemently argued that the services are provided to the Government organizations ultimately and therefore, the same should not be taxed. On being asked, he clearly stated that the expenses given to them by M/s SORT are not the same as are incurred by the appellant for paying to his own staff and a portion of the same is over and above that amount.

3. Learned AR opposes the appeal of the party by backing it up through arguments as have been noted down in the findings of the impugned order. He mentions that the lower authorities had classified the service rendered to M/s SORT under manpower service. Value of the service has been determined on the basis of income shown in the ledger of the appellant. As per Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006, any expenditure or cost incurred by the service provider in the course providing taxable service shall be includable in the total value for determining the service tax amount. Accordingly, the lower authorities have correctly confirmed the service tax demand on the appellant.

4. We have considered the adversarial submissions. We find that the appellant wants to treat the amount received from M/s. SORT as reimbursable expenses and apply the ratio of Hon'ble Supreme Court's decision in the case of Intercontinental Consultants and Technocrats Pvt. Ltd (cited supra). However, we find that Rule 5(2) of Service Tax (Determination of Value) Rules, 2006 specifies certain conditions to be satisfied where a service provider wants to exclude expenditure or cost incurred by him as a **pure agent** of the recipient of the service. The records show that the appellant had questioned determination of taxable value as well as quantum of service tax before the lower authorities who have not discussed this aspect. We therefore deem it fit to remand the matter to the adjudicating authority to determine :-

(a) correct taxable value of service after considering the claim of the appellant for reimbursable expenses incurred by them as pure agent of the service recipient. For this, the appellant is at liberty to produce before the authority the required documents/agreements or any other communication showing him as pure agent.

(b) The benefit of Hon'ble Supreme Court's decision in the case of Intercontinental Consultants and Technocrats Pvt. Ltd (cited supra) to be extended to the appellant in case it is held that they are entitled to exclude certain reimbursable expenses.

(c) personal hearing to be afforded to the appellant to explain its case and then the matter be decided within a period of four weeks from the date of such personal hearing.

5. Appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha