Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad
REGIONAL BENCH-COURT NO. 1

Service Tax Appeal No. 11296 of 2019

(Arising out of OIA-VAD-EXCUS-002-APP-595-2018-19 dated 22/02/2019 passed by Commissioner (Appeals), CGST & Central Excise -Vadodara)

TD Williamson India Private Limited **......Appellant**
Plot No 16, Phase-III,
Alindra Savli, GIDC Savli
Vadodara, Gujarat

VERSUS

COMMISSIONER OF CGST &
CENTRAL EXCISE - Vadodara II **......Respondent**
GST Bhavan, Arkee Garba Ground,
Nr. Telephone Exchange, Shubhanpura,
Vadodara, Gujarat- 390026

APPEARANCE:
Shri Jigar Shah, Advocate for the Appellant
Shri Rajesh Nathan, Assistant Commissioner (AR) for the Respondent

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

Final Order No. 10067/2026

DATE OF HEARING: 08.01.2026
DATE OF DECISION: 08.01.2026

SATENDRA VIKRAM SINGH

M/s TD Williamson India Private Limited, Vadodara (Appellant) have received some equipments from abroad on rental basis and used the same for providing 'maintenance and repair service' and paid hire charges/rental charges for the equipments to their overseas company in foreign currency. They also received some training and paid to the overseas company in foreign currency. The department had after conducting investigation, issued show cause notice F No. V.ST/ADJ/15-26/TDW/Commr.I/2013 dated 22.04.2013 covering the period from 2007-08 to 2011-12. This show cause notice was adjudicated on 10.12.2013 by the Commissioner. The present matter, also involves same issue for the period 2012-13 to 2017-18 (upto June 2017) wherein demand of service tax of Rs. 1,05,11,799/- has been raised on 16.04.2018 against the appellant under Proviso to Section 73 (1) of the Finance Act, 1994 on "Supply of Tangible Goods Service" and "Commercial

Training and Coaching Service". The show cause also demands interest under Section 75 and proposes penalty under Section 76,77 and 78 of the Finance Act, 1994.

1.2 The said show cause notice was adjudicated by the Additional Commissioner vide order dated 31.10.2018 wherein she confirmed the demand of Rs. 1,01,43,917/- under category of 'supply of tangible goods service' along with interest and imposed equal penalty under Section 78 of the Finance Act, 1994. She however dropped the demand of Rs. 3,67,882/- under the category of 'commercial training and coaching service' and also dropped the charges of penalty under Section 76 and 77 of the Finance Act, 1994.

1.3 The appellant filed the appeal before Commissioner (Appeals), who vide impugned order dated 22.02.2019, upheld the order of the lower authority and rejected the appeal filed by the appellant. Hence, this appeal.

2. Learned Advocate mentions that on a similar matter, this Tribunal Vide Final Order No. 11347/2024 dated 05.06.2024 had remanded the matter to the adjudicating Authority for taking a fresh decision in the light of various decisions on right to possession and effective control. The relevant para 4.1, 4.3 and 5 of the said judgment are reproduced below: -

> ***"4.1*** *From the bare perusal of the above definition it is clear that the activity may fall under the category of STGU service only when such services are in relation to supply of tangible goods including machinery, equipment and appliances for use. However, during the course of provision of said service right of possession and effective control of such machinery, equipment and appliances should be retained by the service provider. In the present case it prima facie appears that once the equipment have been supplied by the service provider from aboard, the entire right to possession and effective control appears transferred to the appellant. In such case the condition for classifying the service under STGU does not appear to be satisfied. From the order we have observed that the appellant have made a categorical submission on this vital aspect, however, the adjudicating authority has not considered the same. Therefore, the entire demand confirmed without appreciating whether the condition of definition for STGU service is satisfied or otherwise, the demand*

prima facie will not sustain. Since the Learned Adjudicating Authority has not considered this aspect the entire issue needs to be reconsidered.

4.3 *We also find that as regards STGU service, issue is covered by various judgments cited by the appellant particularly on the aspect that in a case where right to possession and effective control is not transferred to the service recipient, service tax is not sustainable. Therefore, the adjudicating authority while examining the aspect of transfer of right to possession and effective control also needs to consider the said judgments.*

5. *Accordingly, the matter relating to the issue of taxability under the category of STGU is remanded to the Adjudicating Authority for fresh consideration and demand relating to Commercial Training or Coaching Service is set aside. The appeal is disposed of in above terms."*

3. Learned AR mentions that while deciding the earlier matter, the appellant did not produce the copy of the contract entered into between the appellant and their overseas company which may be ordered to be produced before the Adjudicating authority.

4. As the present matter also relates to the same issue, this needs to be remitted to the Adjudicating authority for deciding on the aspect of transfer of right to possession and effective control. Also, agreeing with the above pleadings of Learned AR, we direct the Appellant to produce copies of the contracts/agreements entered into between them and their overseas company for examination by the adjudicating authority. With these directions, the matter is remanded to the Adjudicating authority to decide the issue within 6 months from the date of receipt of this order.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha