CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 21459 of 2014
(Arising out of Order-in-Original No. 23/2013-14 dated 21.01.2014 passed by the Commissioner of Central Excise & Service Tax, Bangalore-1)

M/s. The Director,
Karnataka Government
Insurance Department (KGID) — Appellant(s)
14^{th}-19^{th} Floor, viswesaraih Towers,
Dr. Ambedkar Veedhi,
Bangalore – 560 001.

Versus

The Commissioner of Central
Excise and Service Tax, — Respondent(s)
CR Building, PB No.5400, Queen's Road,
Bangalore – 560 001.

AND

Service Tax Appeal No. 20084 of 2015
(Arising out of Order-in-Original No. 14/2014-15 DT. 02/09/2014 passed by the Commissioner of Central Excise & Service Tax, Bangalore-1)

M/s. The Director,
Karnataka Government
Insurance Department (KGID) — Appellant(s)
14^{th}-19^{th} Floor, viswesaraih Towers,
Dr. Ambedkar Veedhi,
Bangalore – 560 001.

Versus

The Commissioner of Central
Excise and Service Tax, — Respondent(s)
CR Building, PB No.5400, Queen's Road,
Bangalore – 560 001.

Appearance:

Mr. N. Manohar, Advocate for the Appellant

Mr. Dyamappa Airani, Joint Commissioner (AR) for the Respondent

CORAM:
HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20215-20216 /2024

Date of Hearing: 14/03/2024
Date of Decision: 14/03/2024

Per : D.M. MISRA

These two appeals are filed against respective Orders-in-Original mentioned below, passed by Commissioner of Central Excise and Service Tax, Bangalore.

Appeal No.	Impugned order	period	Tax demanded	Interest	Penalty
ST/21459/2014	OIO No.23/2013-14 dt. 21/01/2014	2009-10	Rs.54,62,436/- Rs.7661/-	u/s 75	u/s 77(2) u/s 78
ST/20084/2015	OIO No.14/2014-15 dt. 02/09/2014	2006-07 to 2009-10	Rs.4,66,84,019/- Rs.2,56,47,134/- Rs.28,743/-	u/s 75	Rs.200/- per day during failure to pay tax. u/s 76 u/s 77(2) u/s 78

2. Briefly stated the facts of the case are that the appellant, a department of Karnataka Government provided life insurance service as defined under Section 65(49) of the Finance Act, 1994 to their employees during the relevant period i.e. October 2005 to March 2008 and April 2009 to March 2010. Alleging that the appellant had provided taxable service under the category of life insurance service and renting of immovable property service but failed to discharge appropriate service tax during the period 2006-2010. Two show-cause notices were issued for recovery of the service tax with interest. In the first show-cause notice dt. 01/03/2011, demand of Rs.4,66,39,642/- and Rs.2,56,47,134/- has been raised for non-payment of service tax on insurance service and interest of Rs.84,86,894/- and Rs.39,32,377/- respectively and Rs.28,743/- towards renting of immovable property service; in the second show-cause noticed issued on dt. 23/08/2012 demanding service tax of Rs.54,62,436/- and interest of Rs.29,58,111/- against insurance service and Rs.7661/- on renting of immovable property service. Both the

show-cause notices have been adjudicated by the Commissioner confirming the demand of service tax as well as the interest along with penalties under various sections of the Finance Act, 1994. Hence, the present appeals.

3.1. At the outset, the learned advocate for the appellant has submitted that the appellants are not pursuing the confirmation of service tax amounting to Rs.28,743/- (appeal No.ST/20084/2015) and Rs.7661/- (appeal No.ST/21459/2014) on 'Renting of Immovable Property' for the relevant period confirmed by the adjudicating authority However, the penalty imposed for non-payment of service tax on 'Renting of Immovable Property Service' is contested as there has been no intention in not discharging the service tax on the same; also there were conflicting views prevailing at the relevant time on applicability of service tax on 'Renting of Immovable Property Service'.

3.2. As far as levy of service tax on life insurance service provided by the appellant, a department of the Karnataka State Government, it is submitted that the said service squarely falls under the category of discharging of sovereign functions under Karnataka Government Servant's (Compulsory Life Insurance) Rules, 1958. Considering the service rendered by the appellant in furtherance of sovereign functions, this Tribunal in their own case for the earlier period referring to Board's Circular, allowed their appeal by setting aside the demand on the life insurance service rendered to their employees.

4. Learned AR for the Revenue reiterated the findings of the learned Commissioner. He has submitted that Hon'ble Supreme Court recently in the case of ***Krishi Upaj Mandi Samiti Vs. CCE&ST, Alwar*** [2022(58) GSTL 129 (SC)] held that service of renting of immovable property is taxable.

5. Heard both sides and perused the records.

6. The short issues involved in the present appeals for consideration are whether: (i) the premium collected by the appellant for providing life insurance service to its employees is taxable under the category of 'Life Insurance Service' as defined under Section 65(49) of the Finance Act, 1994, and (ii) an amount received towards renting of immovable property is taxable under the category of 'Renting of Immovable Property Service'.

7. Undisputedly, the appellant is a department of Karnataka State Government and not an insurance company and in pursuance to the Karnataka Government Servant's (Compulsory Life Insurance) Rules, 1958 under the welfare scheme applicable to all Government employees irrespective of their status, collected contribution of 6.5% of mean pay as monthly premium towards the policy. The Service Tax Department proposed to levy service tax on the premium so collected by the appellant. On the said issue, this Tribunal, considering the Circular dt. 18/12/2006 issued by the Board, held that the amount of premium collected in rendering life insurance service is in the nature of sovereign function and not leviable to service tax. This Tribunal observed as under:-

> *4. Heard both sides and perused the records of the case. We find that the appellants are undertaking the activity which is a mandatory and statutory function. We find that Hon"ble High Court of Kerala while disposing the Writ Petition No. 15892/2008 observed, in respect of Kerala Govt. activity in similar manner, that the activity being perused by the petitioner in providing life insurance coverage to the employees of the State Govt. is part of its statutory obligations. We also find that CBEC vide Circular No. 89/7/2006-ST dated 18.12.2006 (issued from F.No. 255/1/2006- CX-4) held at Para 2 that:*
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> > "the issue has been examined. The Board is of the view that the activities performed by the sovereign/public authorities under the provision of law are in the nature of statutory obligations which are to be fulfilled in accordance with law. The fee

> collected by them for performing such activities is in the nature of compulsory levy as per the provisions of the relevant statute, and it is deposited into the Govt. treasury. Such activity is purely in public interest and it is undertaken as mandatory and statutory function. These are not in the nature of service to any particular individual for any consideration. Therefore, such an activity performed by a sovereign/public authority under the provisions of law does not constitute provision of taxable service to a person and, therefore, no service tax is leviable on such activities".
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> *In view of the above, we find that the activity undertaken by the appellants is mandatory and in discharge of statutory obligation in the performance of sovereign functions of the State Govt. Therefore, the appellant"s case is squarely covered by the Circular cited above as far as "Life Insurance" is concerned. Though, it was mentioned in the SCN that the appellants are providing "General Insurance Service" no case has been made out and no demand has been confirmed in this regard.*

We do not find reason not to follow the aforesaid finding of the Tribunal as no contrary decisions have been placed by the Revenue before us.

8. On the issue of levy of service tax on renting of immovable property, the appellant is not contesting the same and also covered by the judgment of the Hon'ble Supreme Court in the case of ***Krishi Upaj Mandi Samiti*** (supra). Since the issue relates to interpretation of law relating to applicability of service tax on 'Renting of Immovable Property Service' during the period in question and conflicting opinions on the subject expressed, levy of penalty for non-payment of service tax on the said service cannot be sustained.

9. In the result, the demands relating to service tax on life insurance service provided to the employees are hereby dropped and service tax on renting of immovable property in both the appeals are confirmed with interest. However, penalties imposed for failure to discharge service tax on renting of immovable property are hereby dropped. The impugned orders

are modified to the extent mentioned above. Appeals are disposed of accordingly.

(Operative portion of the order was pronounced
on conclusion of hearing)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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