**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL**

**BANGALORE**

REGIONAL BENCH – COURT NO.2

**Service Tax Appeal No. 23314 of 2014**

(Arising out of the Order-in-Original No.TVM-EXCUS-000-COM-03-14-15 dated 17.07.2014 passed by the Commissioner of Central Excise & Customs, Thiruvananthapuram.)

**M/s. Meeguard Info Services,**
T.C. 24/427, Sivasakthi Nilayam,
Thycaud P.O.
Thiruvananthapuram
Kerala – 695 014 **.......Appellant**

**VERSUS**

**Commissioner of Central Excise,**
**Customs & Service Tax,**
ICE Bhavan,
Press Club Road,
Thiruvananthapuram, Kerala – 695 001. **.....Respondent**

**WITH**

**Service Tax Appeal No.21947 of 2015**

(Arising out of the Order-in-Appeal No.TVM-EXCUS-000-APP-045-15-16 dated 09.06.2015 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals-III), Thiruvananthapuram.)

**M/s. Meeguard Info Services,**
T.C. 24/427, Sivasakthi Nilayam, Thycaud P.O.
Thiruvananthapuram
Kerala – 695 014 **.......Appellant**

**VERSUS**

**Commissioner of Central Excise,**
**Customs and Service Tax,**
ICE Bhavan, Press Club Road,
Thiruvananthapuram, Kerala – 695 001 **.....Respondent**

**AND**

**Service Tax Cross Objection No.20138 of 2019**
**in**
**Service Tax Appeal No.21861 of 2018**

(Arising out of the Order-in-Original No.TVM-EXCUS-000-COM-03-18-19 dated 05.07.2018 passed by the Commissioner of Central GST and Central Excise, Thiruvananthapuram.)

**Commissioner of Central Taxes and Central Excise,**
Thiruvananthapuram Commissionerate,
Thiruvananthapuram. Kerala – 695 001 **.....Respondent**

**VERSUS**

**M/s. Meeguard Info Services,**
T.C. 24/427, Sivasakthi,
Thycaud P.O.
Thiruvananthapuram, Kerala – 695 014. **.....Respondent**

**Appearance:**
Mr. G. Jayaprakash, Advocate Appeared for Appellant.
Mr. Neeraj Kumar, Authorized Representative for Respondent.

**Coram:**
**Hon'ble Mr. P.A. Augustian, Member (Judicial)**
**Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)**

**<u>Final Order Nos. 21251-21253 of 2024</u>**

Date of Hearing: 01.05.2024

Date of Decision: 29.10.2024

**Per: P.A. Augustian**

The issues in the present appeal are;

i. whether the Appellant is liable to pay service tax on 'Cleaning activity' services provided to Indian Railway and other public sector undertaking;

ii. whether service tax is payable on the gross amount which includes the wages, etc., paid to the employees.

iii. Whether providing secondary packaging activity is falling under the category of manufacturing.

iv. whether transportation of documents and goods and other liaison works amounts to service under the category of 'Manpower Recruitment or Supply agency" services;

v. Whether the appellant is eligible for the benefit of Notification No. 30/2012-ST dated 20.06.2012.

2. In **Appeal No. ST/23314/2014**, the appellant is challenging the impugned order dated 16.05.2014, which was issued against show cause notice dated 05.04.2013 for the period from 2007-08 to 2011-12. As per the order, the adjudication authority confirmed demand of service tax amounting to Rs. 22,77,721/- by invoking the extended period on the ground that they have short paid service tax under the category of 'Cleaning activity' Service. Similarly for the period from 2008-09 to 2011-12, adjudication authority confirmed service tax of Rs. 37,13,249/- considering the activity carried out by the appellant as falling under the category of 'Packaging activity' Services. Adjudication authority confirmed interest for the delayed payment and also imposed penalties under the provisions of the Finance Act, 1994. Similarly, against the show-cause notice dated 10.11.2008 for the period from 16.06.2005 to 30.09.2007, adjudication authority vide order dated 24.12.2009 confirmed demand of service tax of Rs. 28,937/- education cess of Rs. 220/- and SHE cess of Rs. 411/- as short paid by the appellant under 'Cleaning activity' services rendered. Similarly, adjudication authority also confirmed demand of Rs. 12,86,612/- as service tax, Rs. 25,449/- as education cess and Rs. 2778/- as short paid against service tax under the category of 'Manpower Recruitment or Supply agency' Services for the same period. Though the adjudication authority confirmed demand of interest, he refrained from imposing

penalty. Aggrieved by said order, an appeal was filed before Commissioner (Appeals) and Commissioner (Appeals) as per order dated 12.05.2015 rejected the appeal. Aggrieved by the said order, **Appeal No. ST/21947/2015** was filed by the Appellant before this Tribunal.

3. **Appeal No. ST/21861/2018** was filed by the Department against show-cause notice dated 31.03.2015 issued alleging that the appellant had short paid service tax to the tune of Rs. 14,99,660/- under the category of 'Cleaning activity' Services and 'Manpower Recruitment Services'. Further on the same issue, subsequent notice was issued for the period from April 2015 to March 2017 on 13.04.2018 demanding service tax of Rs. 11,09,18,143/- along with interest and proposing penalties, alleging that the service rendered by the appellants is falling under the category of "other Taxable Services". However, the Adjudication Authority dropped the proceedings vide impugned order dated 05.07.2018 and aggrieved by same, Department filed the present appeal before this Tribunal.

4. Brief facts are M/s. Meeguard Info Services, the Appellant is a partnership firm engaged in providing 'cleaning services' to the rolling stocks of the Indian Railways and 'Manpower Recruitment or Supply Agency' services mainly to the public sector undertaking namely, M/s. HLL Life care Ltd, M/s. BSNL and M/s. Indian Railway, etc. As per the ST-3 return submitted by the Appellant, it is observed that they have not paid service tax by considering the gross amount including the wages, etc., paid to the employees and considering the same, Adjudication Authority confirmed the demand. In addition to that, Service Tax was confirmed considering the service provided by the

Appellant to M/s Hindustan Latex as classifiable under the category of 'Manpower recruitment or supply agency' service. However, when the show cause notice was issued for the subsequent period, same 'Manpower recruitment or supply agency' service is reclassified, and demand was made under the category of 'packaging activity' services.

5. When the appeals came up for hearing, learned counsel for the Appellant submitted that the demands confirmed by invoking the extended period of limitation is unsustainable since there is no suppression of facts and Learned Counsel relied on following decisions in support of the same**.**

i. **Ewac Alloys Limited-1995(80) ELT 759 (Bom.)**
ii. **Central Excise Vs. Chemphar Drugs And Liniments-1989 (40) ELT 276 (SC)**
iii. **Pushpam Pharmaceuticals Company Vs. CCE. Bombay [1995 (78) ELT 401 (SC)]**
iv. **Dye Chemical Vs. Cce, Bombay-1995(75)ELT 721 (SC)**
v. **Easland Combines Vs. CCE, Coimbatore 2003-Tiol-26-SC-Cx**
vi. **Uniworth Textiles Vs. CCE, Raipur -2013(288)Elt 161(SC)**

6. On merit, Learned Counsel submitted that the Appellant is engaged in carrying out proper maintenance and hygiene of the Rolling stock of Indian Railway. The cleaning of rolling stocks was carried out in the open yard. The Learned Counsel further submitted that the cleaning of immovable properties alone are included in the provision of 'cleaning activity' services as per Section 65(24b) of Finance Act, 1994. Further as per Section 2(37) of the Indian Railway Act, 1989, Rolling stocks are defined as to include locomotive tender, carriages, wagon, etc. Thus it is intended for locomotion and service tax demanded for the above activity under the said heading is unsustainable.

7. As regarding the activity of secondary packing of the Condoms carried out for M/s HLL Life Care, Learned counsel submitted that the condoms are manufactured and primarily packed in Aluminium foils and then each condom is packed into small packets, which are further packed as per the market requirement. These packings are essential requirement of manufacturing and as per the definition of packing activity under Section 65(76b), "packing activity" means 'packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to 'manufacture' within the meaning of Clause (f) of section 2 of the Central Excise Act, 1944. The Learned Counsel further submitted that for the very same service, show-cause notice was issued and service tax was confirmed in Appeal No. ST/21947/2015 under the category of 'Manpower recruitment or supply agency' services and for the subsequent period in Appeal No. ST/23314/2014, demand was confirmed under the category of 'Packaging activity' services. But the activity carried out by the Appellant is an activity ancillary to the completion of the manufactured products. Even as per the Circular No.643/34/ 2002-CX dated 01.07.2002, cost of secondary packing is to be included in the value of excisable products. Thus the activity is beyond the scope of service tax.

8. As regards the demand against business activity by engaging personnel to transport documents and goods and other liaison works, the Learned Counsel submitted that the compensation for such works was determined based on distance travelled with a minimum of Rs. 150/- at Rs.6/km up to 25 kms and Rs. 4.5/km exceeding 150 kms. 'Manpower recruitment or supply agency' services is defined in Section

65(68) of Finance Act, 1994 as any person engaged in providing any service directly or indirectly in any manner for recruitment or supply of manpower, temporarily on otherwise, to any other person. On analysis of the activity carried out by the appellant, transportation of documents and goods as per requirement, to the external entity with definition cited above indicate that no manpower is supplied as such by the Appellant, but manpower is used by the Appellant to perform the activity as required by M/s HLL Life Care Ltd. Appellant was providing service for transportation of goods to destinations and also to engage in liaison works. Since the activity is falling mainly under transportation of goods, the service tax is payable by the service recipient under reverse charge. Hence the demand confirmed as per the impugned orders merits to be set aside. The Appellant had paid service tax by mistake considering it under the category of 'Manpower Recruitment and supply agency' Services. Therefore, the impugned order confirming the service tax under the category of 'Manpower recruitment or supply agency' services is unsustainable.

9. Further the Learned Counsel submitted that the gross amount considered as consideration for assessing service tax is also unsustainable, since it is an employer-employee relationship. In case of 'manpower recruitment and supply agency' relationship exists between the agencies and the individual and not between the individual and the person, who uses the service of the individual. The Learned Counsel further drew our attention to the contract and submitted that on perusal of the contract entered between Appellant and M/s HLL Life Care Ltd, it clearly indicate that the same is provided as a pure agent. The impugned order rejected the valuation adopted by the Appellant and

considered the gross amount, which is illegal and unsustainable. Learned Counsel further drew our attention to the judgment of Hon’ble Supreme Court in the matter of **Union of India Vs. Intercontinental Consultants and Technocrats Pvt., Ltd., 2018 (10) G.S.T.L 401 (S.C.)** where it is held that:-

> ***24.*** *In this hue, the expression ‘such’ occurring in Section 67 of the Act assumes importance. In other words, valuation of taxable services for charging service tax, the authorities are to find what is the gross amount charged for providing ‘such’ taxable services. As a fortiori, any other amount which is calculated not for such taxable service cannot a part of that valuation as that amount is not calculated for providing such ‘taxable service’. That according to us is the plain meaning which is to be attached to Section 67 (unamended, i.e., prior to May 1, 2006) or after its amendment, with effect from, May 1, 2006. Once this interpretation is to be given to Section 67, it hardly needs to be emphasized that Rule 5 of the Rules went much beyond the mandate of Section 67. We, therefore, find that High Court was right in interpreting Sections 66 and 67 to say that in the valuation of taxable service, the value of taxable service shall be the gross amount charged by the service provider ‘for such service’ and the valuation of tax service cannot be anything more or less than the consideration paid as quid pro quo for rendering such a service.*

10. Learned Counsel further submitted that similar demand was made for the period from 2012-13 to 2015-16 and after considering the submissions, adjudication authority vide Order-in-Original No. 38/2021 dated 30.07.2021 dropped the demand. Learned counsel also produced

copy of the *ibid* order for reference. As regards penalty, Learned Counsel for the Appellant submitted that since the demand confirmed by invoking extended period of limitation is unsustainable in the absence of any allegation of fraud or collusion, imposing penalty is also unsustainable.

11. Regarding appeal No. ST/21868/2018, the Learned Counsel submitted that the demand is unsustainable. Department had issued different show cause notices earlier demanding service tax under 'Manpower recruitment and supply agency' services as per Section 65(105)(k) read with section 65(68) of the Finance Act, 1994, "Cleaning Services' and also under the category of 'Packaging activity' Services. Apart from that, the show cause notices have culminated into orders-in-original and appeals are pending before this Tribunal. The activities rendered by the Respondent in the above cases were classified as 'Manpower recruitment or supply agency' services or 'Packaging activity' services. Even though the definition had undergone changes from 01.07.2012, the accounting code of the services remained same as that of the earlier period indicating the recognition of the activity under 'Manpower recruitment or supply agency' services. The 'Manpower recruitment or supply agency' services were subjected to different changes in the mode of collection by introduction of partial Reverse charge at 25% payable by the supplier of services and 75% by the recipient of services and subsequently 100% payable by the Recipient of services. The very show cause notice that is adjudicated by the impugned order demanded a huge amount as Service Tax alleging short payments by describing the issue in brief and category under, as "Non/Short payment of Service Tax under 'Man Power Recruitment or

Supply Agency' Services and "Cleaning activity' Services and for the period of 01.04-.2015 to 31.03.2017, which falls within the ambit of 'taxable services' under Section 65B(44) read with Section 65(B)(51) of the Finance Act, 1994 (as amended).

12. Learned counsel for the Assessee further submitted that the service recipients for the period of show cause notice were all Central Government Institutions or undertakings such as M/s. HLL Lifecare Ltd., Peroorkada, M/s. HLL Lifecare Ltd., Akkulam, IISER, BSNL, CTCRI, IIST and Southern Air Command, Trivandrum. Learned counsel for the Assessee also drew our attention to the sample copies of the invoices issued, which clearly shows that partial reverse charge existed and afterwards full charges under reverse charge. Thus, it is clear that activity of the Appellant during the relevant period of show cause notice was carried out for Central Government undertaking, whose accounts are audited by the C & AG. M/s. HLL Lifecare Ltd., Peroorkada, M/s. HLL Lifecare Ltd., Akkulam, and BSNL are the body corporate institutions that were liable to pay Service Tax under Reverse charge and hence as provided under Notification No. 30/2012-ST dated 20.06.2012 the service recipients discharged their liability. The Respondent duly paid Service Tax for the 'cleaning services' rendered to M/s HLL Akkulam for the period 2015-16. Copies of certificates issued by the above service recipients were also produced before the original authority. It was also submitted before the original authority that, if the activity of the Respondent is not 'Manpower recruitment or supply agency' services then it is the responsibility of the Revenue to prove the activity rendered is other than 'Manpower Recruitment or Supply Agency' services by specifically classifying under an activity with specific

accounting code. Thus, only on careful consideration of the submissions made by the Respondent before the adjudicating authority, the demand was dropped by stating specific reasons and appeal is liable to be dismissed.

13. Learned counsel for the Assessee further submitted that either in the Review order or in the Grounds of appeal, any other specific service is suggested so as to deposit the tax under specific accounting code, if a favourable order is issued. It is a settled issue that mere suspicion is not enough to sustain a demand but well founded facts are necessary. In this case, para 9 of the impugned order spelt out the reasons as to why the demand is dropped. The impugned order specifically states about the verification of the invoices issued by the Respondent and about the show cause notice no. 22/2017-18 ST(AC) dated 20.11.2017 issued by the Assistant Commissioner (Audit) classifying the activity as "Man Power Recruitment or Supply Agency" Services. The order further states about applicability of Notification No. 30/2012-ST dated 20.6.2012 read with Notification No. 07/2015 ST dated 1.3.2015 and concluded the classification of the activity under 'Man Power Recruitment or Supply Agency Services". Vide para 10 of the impugned order, it is conclusively stated that the allegation in the show-cause notice is settled in favour of the Respondent and there is sufficient and satisfactory evidence to support the claim of the assessee. Even though the impugned order clearly stated that the allegation in the show-cause notice is settled in favour the Respondent, the review order repeated the same allegation as in the show-cause notice without adducing any evidence. Learned counsel for the Assessee further submitted that the finding in the impugned order allowing exemption envisaged under

Notification No. 25/2012-ST for cleaning services provided to M/s IISER, an educational institution is also sustainable. Learned Counsel further submitted that similar demand was made for the period from 2012-13 to 2015-16 and after considering the submissions, adjudication authority vide Order-in-Original No. 38/2021 dated 30.07.2021 dropped the demand. Thus in the absence of any contrary finding adduced in the review order or in the Grounds of Appeal, the Appeal ST/21868/2018 merits to be dismissed.

14. Learned Authorised Representative (AR) for the Revenue reiterated the finding in the impugned order and also relied on the judgment of Hon'ble High Court of Kerala in the matter of **M/s Security Agency Association Vs. Union of India -2012 (28) STR 3(Ker.)** and submitted that the Appellant is liable for payment of service tax on gross amount received by the appellant. In Appeal No. ST/21868/2018, Learned AR submitted that the Adjudication authority committed a gross error in dropping the demand for the relevant period.

15. Heard both sides and perused the records

16. As regards invoking the extended period of limitation, there is no allegation that the appellant is involved in suppression of facts in any manner with an intention to evade payment of service tax. Moreover, for the very same service, demand was made for different periods by issuing different show-cause notices by invoking extended period of limitation. Similar demand was made for the period from 2012-13 to 2015-16 and after considering the submissions, adjudication authority vide Order-in-Original No. 38/2021 dated 30.07.2021 dropped the demand. As held by Hon'ble Supreme Court in the matter of **Pushpam Pharmaceuticals Company Vs. CCE, Bombay-1995 (78) E.L.T.**

**401 (S.C),** wilful suppression does not mean any omission and that the act must be deliberate. Further in the matter of **Cosmic Dye Chemical Vs. CCE, Bombay – 1995 (75) E.L.T. 721 (S.C),** the Apex Court held that to invoke the extended period of limitation, there must be an intention to evade duty. In Appellant's case, the services were all given to Central Government Institutions or Institutions like HLL Lifecare Ltd., IISER, BSNL, IIST, Southern Air Command and they are liable to bear the service tax even, if the appellant had paid the service tax. The 'Cleaning activity' services were provided to Indian Railway and as per the communication made by the appellant with Indian Railway, they have refused to pay service tax on the ground that service tax is not applicable for cleaning services provided to Indian Railway as per the decision of the Tribunal in **M/s R.K. Refreshment & Enterprises (P) Ltd. 2018 (14) GSTL 281 (Tri.-Del.)**, Similarly, Apex court in the matter of **Continental Foundation Jt. Venture Vs. Commr. of C. Ex., Chandigarh-I** (**1995 (78) E.L.T. 401 (S.C.)**) held That :-

> ***"12.*** *As far as fraud and collusion are concerned, it is evident that the intent to evade duty is built into these very words. So far as mis-statement or suppression of facts are concerned, they are clearly qualified by the word 'wilful', preceding the words "mis-statement or suppression of facts" which means with intent to evade duty. The next set of words 'contravention of any of the provisions of this Act or Rules' are again qualified by the immediately following words 'with intent to evade payment of duty.' Therefore, there cannot be suppression or mis-statement of fact, which is not wilful and yet constitute a permissible ground for the purpose of the proviso to Section 11A. Mis-statement of fact*

*must be wilful.*

*17.* Considering the above facts, demand by invoking the extended period of limitation is unsustainable.

18. Regarding demand of service tax under "cleaning activity' services provided by the appellant to Railways and other Central Government Departments, though the appellant has not collected the same, appellant was liable to pay service tax for the service under 'Cleaning Service'. The issue is no more res integra. As per the decision of the Hon'ble Madras High Court in the matter of **M/s. Premier Garment Process Vs. CCE&ST, Chennai-2022 (10) TMI 881 – Madras,** the issue is settled and the activities of the Appellant are subject to service tax. Similar view was taken in the matter of **M/s Hakamichand D & Sons Vs. CST-ST-Ahmedabad-2022 (5) TMI 481–CESTAT, Ahmedabad.** Thus, even if the appellant failed to collect service tax, service tax liability for providing such services is well settled and the impugned order is sustainable. Hence, demand for the normal period against the show-cause notices issued to the appellant is confirmed. Since the appellant has not collected the same from the service recipient, Appellant is entitled for cum-tax benefit as held by adjudication authority as per Section 67(2) of the Finance Act, 1994.

19. As regards the activity of secondary packing of the Condoms carried out for M/s HLL Life Care and demand of service tax under the category of 'Packaging activity' Services. initially the Department has taken the view that the activities are falling under the category of 'Manpower Recruitment or Supply Agency' Services and for the subsequent period, demand was confirmed under the category of 'Packaging activity' Services. However, considering the definition of

‘Packaging Activity’ under Section 65(7B) and Clause (f) of Section 2 of the Central Excise Act, 1944, and considering the Circular dated 01.07.2002, such activity can be considered as manufacture, and it is beyond the scope of service tax. Hence, entire demand under the category of ‘Manpower Recruitment and Supply Agency' Services or under 'Packaging activity' services on the consideration received from M/s. HLL Life Care is set aside.

20. Regarding Service Tax demand by considering the gross amount as consideration, though the Hon’ble High Court of Kerala in the matter of **M/s. Security Agencies Association (supra)** held that salary and statutory payment of security personal can be included as consideration, only by following the ratio of the judgment of the Hon’ble Supreme Court in the matter of **Intercontinental consultants and Technocrats Pvt., Ltd**., (supra) and considering the nature of contract to find out whether appellant had received the consideration as pure agent, service tax can be quantified.

21. As regarding demand of service tax for providing transportation of document, the activity cannot be considered as 'Manpower, recruitment or Supply' services, since the consideration was determined on the basis of distance for carrying the document belonging to M/s. HLL Lifecare and it is falling under the category of ‘Transportation of Goods’. As per the relevant provisions of law, the service tax is payable by the service recipient under reverse charge.

22. In view of the above discussion and considering the above finding, the Appeal Nos. ST/2331/2014 and ST/21947/2015 are partially allowed and the matter is remanded to adjudicating authority for assessing the service tax. if any payable by the appellant for the

'Cleaning activity' services as applicable for normal period against both the notices. As regarding the activity of secondary packing of the condoms carried out for M/s HLL Life Care, demand of service tax considering said activity both under "Packaging activity" or "Manpower Recruitment or Supply Agency' Service is set aside. The demand of service tax under 'Manpower Recruitment or Supply Agency' Service against appellant for delivery of documents provided to HLL Lifecare is set aside. As regarding penalty, in the absence of any allegation regarding fraud or suppression of fact and considering the ratio of the judgment of Hon'ble Supreme Court in catena of cases, penalty imposed by the adjudication authority is set aside.

23. As regarding the demand under ST/21861/2018, it is evident that the adjudication authority has considered the submission made by the appellant and considering the crucial facts regarding payment of service tax by recipient of service, which is not considered while issuing the show-cause notice, we hold that it is erroneously included in the present demand. Further the adjudication authority has given a clear finding that the present demand is made under the category of service as defined vide Section 65B(44) of the Act read with Section 65B(51) of the Finance Act, 1994. whereas the assessee had paid service tax for the considerable part of the above consideration under the category of 'Manpower Recruitment or Supply Agency' Services and 'Cleaning activity' services for the relevant period. The differences between contract receipts and ST-3 Returns were also verified by the adjudication authority in detail. Further as per the show-cause notice, the reason for raising demand is that *"as there is no sufficient and satisfactory evidence to support the claim of the assessee that they*

*were providing Supply of Manpower services and therefore, the applicability of Notification No. 30/2012 ST dated 20.06.2012 being doubtful, the Department is constrained to consider the services rendered by the assessee as other taxable services and demand the tax as payable by the provider.”* However, as evident from the show cause notice, the Adjudication Authority relied on ST-3 returns for the period from 2015-1616 and 2016-17 as relied upon documents to issue the show cause notice. Further, only after taking note of the above, the adjudication authority considered the previous proceedings and dropped the demand. Considering the above and considering the finding regarding lack of evidence on record as discussed in *ibid* paras for invoking the extended period of limitation, against the demand for the period from 2015-16 to 2016-17 in Appeal No. ST/21861/2018 filed by the department demand of Service Tax is unsustainable. As regards the demand of duty as short paid for the period from April 2012 to March 2015 amounting into Rs.14,99,600/-, the appellant is liable to pay service tax under 'Manpower Recruitment or Supply Agency Services' and 'Cleaning activity' services, the appellant is eligible for the benefit of Notification No. 30/2012-ST dated 20.06.2012 and being provider of service is liable for payment of only 25% of the total Service Tax, due. Thus, for assessing the short payment of Service Tax, if any payable by the appellant for the period from April 2012 to March 2015 after considering the finding in the above para, the matter is remanded to Adjudication Authority.

24. In view of the above discussion, Appeal No. ST/21861/2018, filed by the Department and Cross Objection Memorandum No. 20138 of 2019 are disposed by partially allowing the appeal filed by the

Department. Appeal No. ST/2331/2014 and ST/21947/2015 filed by the Assessee are partially allowed and remanded to the Adjudication Authority to quantify the service tax liability against 'cleaning activity' services, 'Manpower Recruitment or Supply Agency' Services for the normal period considering the date of issue of each show cause notice. As regards gross amount as consideration, the adjudication authority shall consider the contract against each service to ascertain whether the contract entered between Appellant and recipient of service are falling under the category of pure agent and if falling under the category of pure agent, said consideration should be excluded from the consideration. Further, the appellant is eligible for the benefit of Notification No. 30/2012-ST dated 20.06.2012 and cum-tax benefit as held by adjudication authority as per Section 67(2) of the Finance Act, 1994. Adjudication Authority is directed to complete the De-novo Adjudication within 3(three) months after the receipt of this order by extending a reasonable opportunity for personal hearing to the appellant.

(Order Pronounced in Open court on 29.10.2024)

**(P.A. Augustian)**
**Member (Judicial)**

**(Pullela Nageswara Rao)**
**Member (Technical)**

Sasidhar