CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 937 of 2011

(Arising out of Order-in-Appeal No.37/2011 dated 06.01.2011 passed by the Commissioner of Central Excise (Appeals-II), Bangalore.)

The Commissioner of Central Excise
No.16/1, SP Complex,
Lalbagh Road,
Bangalore – 560 027.

Appellant(s)

VERSUS

M/s. Bharat Tissues Pvt. Ltd.
No.7/1, K.H. Road,
Bangalore – 560 027.

Respondent(s)

APPEARANCE:

Shri Rajesh Sastry, Authorised Representative for the Revenue.

None for the respondent.

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20143 / 2025

DATE OF HEARING: 06.02.2025
DATE OF DECISION: 06.02.2025

PER : R. BHAGYA DEVI

Brief facts of the case are that the respondent M/s. Bharat Tissues Pvt. Ltd. (BTPL), were held to be liable to pay Service Tax as recipient under Rule 2(1)(d)(iv) under Service Tax Rules, 1994. The original authority confirmed the service tax amount of Rs.38,58,785/- for the period 09.07.2004 to 31.05.2007. On appeal, the Commissioner (A) restricted the demand from 18.04.2006 to 13.05.2007 in view of the decision by the Hon'ble High Court of Bombay in the case of **M/s. Indian National Ship Owners Association vs. UOI: 2009 (13) STR 235**

(Bom.). Aggrieved by this order, department is in appeal on the ground that the Board issued Circular CBEC No. B/1/4/06-TRU dated 19.04.2006, the recipients of services were treated as deemed service providers and hence, liable to pay Service Tax from 1.1.2005.

2. Heard both sides. The issue is no longer *res integra* in as much as the decision of Hon'ble High Court in the case of **Indian National Shipowners Association** (supra) was affirmed by Hon'ble as reported at **2010 (17) S.T.R. J57 (S.C.)** wherein their Lordships observed as:

> "The High Court, in the impugned judgment, had held that service recipient in India is liable to Service tax for service received from abroad only from 18-4-2006 after enactment of Section 66A of Finance Act, 1994. It held that person providing service alone regarded as an assessee as per Chapter V of Finance Act, 1994 and Rule 2(1)(d)(iv) of Service Tax Rules, 1994 cannot be framed as not to carry the purpose of the Chapter V *ibid*. Further, services provided to petitioners outside India became taxable service as per Explanation to Section 65(105) *ibid* but charge being on service provider, petitioners being service recipients were not liable. The High Court noted that statutory provision was absent to charge Service tax from recipient before enactment of Section 66A of Finance Act, 1994."

3. In view of the above, the impugned order is upheld and the appeal filed by the Revenue is dismissed.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

RV