CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 2464 of 2012

(Arising out of Order-in-Appeal No. 119/2012 – Service Tax dated 18.05.2012 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals), Cochin.)

M/s. Minar Steels
Kanjikode West
P.O. Palakkad District.

Appellant(s)

VERSUS

The Commissioner of Central Excise, Customs and Service Tax (Appeals)
C.R. Building, I. s. Press Road,
Cochin - 18

Respondent(s)

WITH

Service Tax Appeal No. 2465 of 2012

(Arising out of Order-in-Appeal No. 105/2012 – Service Tax dated 18.05.2012 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals), Cochin.)

M/s. Minar Steels
Kanjikode West
P.O. Palakkad District.

Appellant(s)

VERSUS

The Commissioner of Central Excise, Customs and Service Tax (Appeals)
C.R. Building, I. s. Press Road,
Cochin - 18

Respondent(s)

APPEARANCE:

Shri Shivadas Chettoor, Chartered Accountant for the Appellant

Ms. Arpitha S, Joint Commissioner (AR) for the Respondent

CORAM:

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

FINAL ORDER NO. 21007 - 21008 / 2025

DATE OF HEARING: 27.06.2025

DATE OF DECISION: 27.06.2025

PER: P.A. AUGUSTAIN

These two appeals are filed by the appellant M/s. Minar Steels against Order-in-Appeal No. 119/2012 – Service Tax and Order-in-Appeal No. 105/2012 – Service Tax both dated 18.05.2012 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals), Cochin.

2. The issue in the present appeals is whether the reimbursable expenses are deductible from the taxable value. The appellant is engaged in trading of iron and steel products and also providing service as 'Clearing and Forwarding Agent'. On verification of ST-3 returns, it was observed that appellant had discharged service tax liability only for the amount of commission received by them as a consignment agent. Alleging that the service tax should be considered on the gross amount received by the appellant, proceedings were initiated and the adjudicating authority confirmed the demand. Aggrieved by said orders, appeals were filed before Commissioner (A). The learned Commissioner (A) upheld the order of the lower authority and confirmed demand of Rs.58,806/- for the period from April 2006 to March 2007 vide impugned order Order-in-Appeal No. 119/2012 – Service Tax dated 18.05.2012 and vide Order-in-

Appeal No. 105/2012 – Service Tax dated 18.05.2012 confirmed demand of Rs.74,495/- for the period from April 2007 to March 2008, as short-paid by the appellant which included Education Cess and Secondary Higher Education (SHE) Cess along with interest and also imposed equivalent penalty under Section 76 of the Finance Act, 1994. Aggrieved by these orders, Appeal No.ST/2564/2012 and Appeal No. ST/2565/2012 were filed, respectively.

3. When the appeal came up for hearing, the learned counsel for the appellant submitted the issue is no more *res integra* and is covered by the judgment of the Hon'ble Supreme Court in the matter of **Union of India vs. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd.: 2018 (10) GSTL 401 SC** where it is specifically held that all expenses towards performing the service has to be excluded from the gross amount while assessing the service tax liability.

4. The learned Authorised Representative for the Revenue reiterated the findings in the impugned orders.

5. Heard both sides. The only issue to be decided is whether reimbursable expenses incurred during the course of providing service are to be included in the gross value for computation of service tax liability. We find that the impugned orders were issued only on the ground that the appellant had failed to discharge servicer tax on the reimbursable expenses incurred by the appellant for the above period, the impugned order confirmed the demand of service tax along with penalty. This issue is no more *res integra* and stands settled by the decision of the Hon'ble High Court in the case of **Union of India vs. M/s.**

Intercontinental Consultants and Technocrats Pvt. Ltd. (supra) had held that expenses incurred during the course of providing service cannot be includable in the value of service. In view of this, the impugned orders are set aside and appeals are allowed with consequential relief, if any, in accordance with law.

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

(P.A. AUGUSTAIN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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