CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 2579 of 2012

(Arising out of Order-in-Appeal No.139/2012 dated 15.06.2012 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Cochin.)

Shri Pratheesh K Philip
M/s. Geojit, XVII – 791 – B15,
Madaparambil Square,
Opp. Sanjoe Hospital
Perumbavoor – 683 542.

Appellant(s)

VERSUS

The Commissioner of Central Excise
C.R. Building,
IS Press Road,
Cochin – 682 018.

Respondent(s)

APPEARANCE:

Ms. Prathima H.S. Chartered Accountant for the Appellant.
Shri M. Sreekanth, Superintendent (AR) for the Respondent.

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

FINAL ORDER NO. 21743 /2025

DATE OF HEARING: 29.08.2025
DATE OF DECISION: 29.08.2025

PER: R. BHAGYA DEVI

This appeal is filed against Order-in-Appeal No.139/2012 dated 15.06.2012 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Cochin.

2. Briefly the facts are that the appellant Shri Pratheesh K Philip is a business associate of M/s. Geojit Financial Services Ltd. (GFSL) and had entered into an agreement to provide know how for setting up of office including infrastructure and operating

procedures. Alleging that the appellant had provided taxable services under the category of 'Business Auxiliary Service' to his business associate, show-cause notices were issued demanding service tax for the period from 10.09.2004 to 31.03.2008. These show-cause notices were adjudicated and confirmed by the adjudicating authority and on appeal, the Commissioner (Appeals) in the impugned order partially allowed the appeal. Aggrieved by this order, the appellant is in appeal before us.

3. The Learned Chartered Accountant for the appellant submits that his business associate GFSL had discharged service tax on the entire commission collected from the client, hence as a sub-broker he is not liable to pay service tax. Relying on the decision in the case of **C.M. Goenka & Co. Vs. C.CE. 2012 (25) STR 242 (Tri.)** claimed that the services of sub-broker to the main broker is not a Business Auxiliary Service. Also, relied on the Notification No. 3/2014-ST dated 03.02.2014 which granted retrospective exemption to the sub-brokers for the period commencing from 10th September 2004 to 30th June 2012. Further, relied on the Final Order No. 23315/2017 dated 13.12.2017 of this Tribunal in the appellant's own case wherein the demand against the sub-broker was dropped.

4. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the impugned order.

5. Heard both sides. The period of dispute in the present case is from 01.04.2008 to 31.03.2009. The appellant had relied upon the Notification No. 3/2014-ST dated 03.02.2014 is reproduced below, which gives retrospective benefit of service tax for the period from 10.09.2004 to 30.06.2012.

[Notification No. 3/2014-S.T., dated 3-2-2014]

Forward contract — Exemption to Service Tax to authorised person or sub-broker to Member of Recognized Association or Registered Association during the period from 10-9-2004 to 30-6-2012

Whereas, the Central Government is satisfied that a practice was generally prevalent regarding levy of service tax (including non-levy thereof), under section 66 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as 'the Finance Act'), on services provided by an authorised person or sub-broker to the member of a recognised association or a registered association, in relation to a forward contract, and that such services were liable to service tax under the Finance Act, which was not being levied according to the said practice during the period commencing from the 10th day of September, 2004 and ending with the 30th day of June, 2012;

Now, therefore, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the Finance Act, the Central Government hereby directs that the service tax payable on the services provided by an authorised person or sub-broker to the member of a recognised association or a registered association, in relation to a forward contract, shall not be required to be paid in respect of such taxable service on which the service tax was not being levied during the aforesaid period in accordance with the said practice.

6. In view of the above, since the disputed period of demand of service tax is covered vide the above Notification No. 3/2014-ST dated 03.02.2014, the demand is set aside.

Appeal is allowed with consequential relief, if any, as per law.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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