

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 20562 of 2017

(Arising out of Order-in-Original No.29-30/2016-17 dated
17.01.2017 passed by the Commissioner of Service Tax, Bengaluru)

M/s. ASM Technologies Limited.

No.80/2, Lussane Court,
Richmond Road, Richmond Town,
Bangalore-560 025.

Appellant(s)

VERSUS

**Commissioner of Central Excise,
Customs and Service Tax,**

1st to 5th Floor, TTMC Building,
Above BMTTC Bus Stand,
Domlur,
Bangalore-560071.

Respondent(s)

WITH

Service Tax Appeal No. 20569 of 2017

(Arising out of Order-in-Original No.29-30/2016-17 dated
17.01.2017 passed by the Commissioner of Service Tax, Bengaluru)

M/s. ASM Technologies Limited.

No.80/2, Lussane Court,
Richmond Road, Richmond Town,
Bangalore-560 025.

Appellant(s)

VERSUS

**Commissioner of Central Excise,
Customs and Service Tax,**

1st to 5th Floor, TTMC Building,
Above BMTTC Bus Stand,
Domlur,
Bangalore-560071.

Respondent(s)

APPEARANCE:

Mr. N. Anand, Advocate for the Appellant.

Shri M.A. Jithendra, Asst. Commissioner (AR) for the Respondent.

CORAM:

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

FINAL ORDER NO. 22076-22077 /2025

DATE OF HEARING: 25.11.2025

DATE OF DECISION: 25.11.2025

PER: R. BHAGYA DEVI

These two Appeal Nos. ST/20562/2017 and ST/20569/2017 are filed by the appellant M/s. ASM Technologies Limited against Order-in-Original No. 29-30/2016-17 dated 17.01.2017 passed by the Commissioner of Service Tax – I, Commissionerate Bangalore.

2. Briefly the facts are the appellant is a Public Limited Company, who is rendering services under various categories namely 'Commercial Training and Coaching', 'Manpower Recruitment Agency', 'Information Technology Software Services', etc. During the period of dispute from January 2013 to December 2014, the appellant had collected service tax and had not deposited the same into the Government account; accordingly, show-cause notices were issued and the demand was confirmed along with interest and various penalties were imposed on the appellant. Aggrieved by these orders, the appellant is an appeal before us.

3. Learned Counsel for the appellant submits that in both the appeals, the entire demand of service tax along with interest was paid much prior to the issuance of show-cause notice which was appropriated in the impugned order. The appellant accepts the liability of service tax and having paid the same along with

interest, prays for setting aside of all penalties in terms of Section 73(3), explanation 2 thereof, of the Finance Act, 1994.

3.1. Further it is submitted that the appellant could not pay service tax within the due dates due to financial crisis but discharged the same belatedly along with interest. Since the amounts were discharged along with interest, the Revenue should not have issued any show-cause notice and should have concluded the proceedings without imposition of penalties. Learned Counsel relied on the following decisions:

- i. **CCE Vs. Adecco Flexione Workforce Solutions Ltd.: 2012 (26) STR 3 (Kar.)**
- ii. **CST Vs. Master Kleen: 2012 (25) STR 439 (Kar.)**
- iii. **CST Vs. Fruition Informatics (P) Ltd.: 2012 (26) STR 519 (Kar.)**
- iv. **CCE Vs. Geneva Fine Punch Enclosures Ltd.: 2011 (267) ELT 481 (Kar.)**
- v. **ASM Technologies Ltd. Vs. CCE vide Final Order No.21209/2025 dt. 30.04.2025**


4. Learned Authorized Representative (AR) for the Revenue reiterated the findings of the Commissioner in the impugned order. It is submitted that since the appellant had partially paid the interest prior to issuance of show-cause notice and the remaining was paid after issuance of show-cause notice, the benefit of Section 73(3) cannot be extended to the appellant as discussed by the Commissioner in the impugned order.

5. Heard both sides and perused the records. The appellant as per the records has discharged entire amount of service tax prior to the issuance of show-cause notices in both the appeals. However, in Appeal No. ST/20562/2017, we find that out of total interest of Rs. 18,88,686/-, appellant had paid interest of Rs.8,04,034/- on 21.06.2013 (prior to issuance of show-cause notice) and the balance of Rs.10,81,013/- was paid on 12.11.2013 and Rs.3,369/- on 07.03.2016 (prior to issuance of

Order in Original). In the second appeal No. ST/20569/2017, the appellant had paid the entire tax amount prior to the issuance of show-cause notice and interest of Rs.29,96,336/- was paid in two installments i.e., Rs. 19,46,803/- was paid on 29.10.2014 prior to issuance of statement of demand and balance amount of Rs.10,49,533/- was paid on 07.03.2016 prior to the issuance of the Order-in-Original. The Commissioner in the impugned order notes that the appellant had not paid the interest amount of Rs.10,49,533/- but the appellant at the time of hearing had placed on record a challan dated 07.03.2016 for payment of Rs.31,57,927/- and a letter dated 19.11.2025 from the Chartered Accountant to state that these amounts are towards payment of interest as confirmed in the impugned order. The challan and the letter are reproduced below:

BEFORE THE COMMISSIONER

000074

 भारतीय स्टेट बैंक
State Bank of India
The Banker to Every Indian

e-Receipt for Central Service Tax Payments

Name and Address of the Assessee	ASM TECHNOLOGIES LTD -80/2,LUSANNE COURT RICHMOND ROAD, BANGALORE URBAN,KARNATAKA	Pin	560025
Telephone	22274124	Major Head Code	0044
Assessee Code	AABCA4362PST001	Commissionerate Code	SN
Commissionerate	BANGALORE SERVICE TAX-I	Range Code	05
Division Code	01		

(Indicate appropriate type of duty and 8 digit reduced accounting code of the product/commodity)		Amount Tendered (In whole Rupees)	
Description of Duty	Accounting Code		
1. INFORMATION TECHNOLOGY SOFTWARE SERVICE OTHERS RECEIPTS	00440450	Rs	3157927
2.--	--	Rs	--
3.--	--	Rs	--
4.--	--	Rs	--
5.--	--	Rs	--
6.--	--	Rs	--
Total		Rs	3157927.00

(In Words) Rupees Thirty One Lakhs And Fifty Seven Thousand And Nine Hundred And Twenty Seven Rupees only

Tendered By Ajith Kumar **Cash/Cheque/Bank Draft/ PayOrder** CK87061568
No drawn
Debit to a/c

Date and Time 07-Mar-2016 [06:56:01 PM] **For ASM TECHNOLOGIES LTD**

Signature of the Tenderer with

SPACE FOR RECEIVING AND FOCAL POINT BANK

RECEIVING BANK BRANCH	
State Bank of India	
BSR Code	0005347
Cheque Received Date	07032016 [06:56:01 PM]
Challan No.	03434
Cheque Realised Date	07032016 [06:56:01 PM]
Received Payment Rs	3157927.00
CIN	00053470703201603434

Venu & Vinay
Chartered Accountants

U



Date: 19-11-2025

To,
M/s ASM Technologies Limited
80/2, Lusanne Court, Richmond Road,
Richmond Town, Bengaluru Karnataka, 560025

Sub: Certificate regarding payment of Interest

This is to certify that, as per the records and information produced before us, **M/s ASM Technologies Limited** holding erstwhile Service Tax Registration No.: [ST Regn No. AABCA4362PST001] and current GSTIN: [GSTIN: 29AABCA4362P1Z9], has made the following payments through the electronic challans (e-Receipts) No. 03434 dated 7th March, 2016 under the Service Tax law:

Sl. No.	Amount (₹)	Particulars / Remarks
1	3,369	Payment towards interest liability pertaining to the appeal no. ST/20562/2017
2	10,49,533	Payment towards interest liability pertaining to the appeal no. ST/20569/2017
3	21,05,025	Interest paid for the period 2015-16
	31,57,927	Total

Based on our verification of the payment challans, and the management declaration furnished by the Company, we confirm that the above amounts form part of the total payment of ₹31,57,927/- made on 07.03.2016 and correspond to the interest liabilities as stated above.



1, 1st Block, 3rd Cross, Ashoka Pillar, Jayanagar, Bengaluru - 560 011
Website : www.vnvca.com Email : admin@vnv.ca

Ph : 080- 2667 6751
2667 1433
2660 6498
Mobile : 82962 65222

iso at : Chennai | Mumbai | Hyderabad | Ananthapur | Visakhapatnam | Vijayawada | Chikkamagaluru | Malur

6. Taking into consideration the above, since these facts are not disputed by Revenue, the same is considered as payment towards the interest as confirmed by the Commissioner in the impugned order. Since the entire amount of service tax along

with interest has been paid by the appellant as per Explanation 2 of Section 73 (3), no penalty can be imposed on the appellant. Accordingly, we confirm the demand of service tax along with interest and set aside all the penalties imposed on the appellant.

Appeals are allowed to the extent of setting aside the penalties.

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

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv