CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 22372 of 2014

(Arising out of Order-in-Appeal No.44/2014 dated 07.01.2014 passed by the Commissioner of Central Excise (Appeals-II), Bangalore.)

Acharya Associates
No.305, 10th Cross, 7th Main Road,
ISRO Layout,
Bangalore-560 078. — Appellant(s)

VERSUS

The Commissioner of Service Tax,
1st to 5th Floor,
TTMC Building, above BMTC Bus Stand,
Domlur,
Bangalore-560 071. — Respondent(s)

APPEARANCE:

Mr. Srivatsa Rao, Advocate for the Appellant.
Mr. M. Sreekanth, 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. 22086 /2026

DATE OF HEARING: 27.11.2025
DATE OF DECISION: 27.11.2025

PER: R. BHAGYA DEVI

Briefly the facts are that the appellant M/s. Acharaya Associates are rendering services under the category of 'Outdoor Catering Services and Management Recruitment Agency Services'. At the time of audit, it was observed that the appellant had incurred certain reimbursable expenses which did not form

part of the gross assessable value for discharging service tax; accordingly invoking the provisions of Section 67 read with Rule 3 of Service Tax (Determination of Value) Rules, 2006, the demand was confirmed by the Original Authority which was upheld by the Commissioner (Appeals) in the impugned order. Aggrieved by this, the appellant is appeal before us.

2. Learned Counsel for the appellant submits that the entire demand is liable to be set aside in view of the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Intercontinental Consultants and Technocrats Pvt. Ltd. – 2018 (10) GSTL 401 (S.C)**. It is also submitted that the amendment to the Service Tax (Determination of Value) Rules, 2006 vide Finance Act, 2015 was brought into effect in 2015 to include reimbursable expenses and the period of dispute in the present case being April 2007 to March 2008, the demand cannot be sustained. It is also stated that the demand is barred by limitation since the show-cause notice was issued only on 15.06.2011 and there is no justification for invoking extended period of limitation.

3. The Learned Authorized Representative (AR) for the Revenue reiterated the findings of the authorities in the impugned order.

4. Heard both sides. The issue is no longer *res integra* inasmuch as the relevant Rules to include the reimbursable expenses as per the Service Tax (Determination of Value) Rules, 2006 has been held to be beyond the scope of the statue. The Hon'ble Supreme Court in the case of **Union of India Vs. Intercontinental Consultants and Technocrats Pvt. Ltd.** (supra) observed as follows:

> **"21.** Undoubtedly, Rule 5 of the Rules, 2006 brings within its sweep the expenses which are incurred while rendering the service and are reimbursed, that is, for which the service receiver has made the

payments to the assessees. As per these Rules, these reimbursable expenses also form part of 'gross amount charged'. Therefore, the core issue is as to whether Section 67 of the Act permits the subordinate legislation to be enacted in the said manner, as done by Rule 5. As noted above, prior to April 19, 2006, i.e., in the absence of any such Rule, the valuation was to be done as per the provisions of Section 67 of the Act.

22. Section 66 of the Act is the charging Section which reads as under:

> *"there shall be levy of tax (hereinafter referred to as the service tax) @ 12% of the value of taxable services referred to in sub-clauses of Section 65 and collected in such manner as may be prescribed."*

23. Obviously, this Section refers to service tax, i.e., in respect of those services which are taxable and specifically referred to in various sub-clauses of Section 65. Further, it also specifically mentions that the service tax will be @ 12% of the 'value of taxable services'. Thus, service tax is reference to the value of service. As a necessary corollary, it is the value of the services which are actually rendered, the value whereof is to be ascertained for the purpose of calculating the service tax payable thereupon.

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 providing 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 emphasised 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 qua* for rendering such a service.

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29. In the present case, the aforesaid view gets strengthened from the manner in which the Legislature itself acted. Realising that Section 67, dealing with valuation of taxable services, does not include reimbursable expenses for providing such service, the Legislature amended by Finance Act, 2015 with effect from May 14, 2015, whereby Clause (a) which deals with 'consideration' is suitably amended to include reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service. Thus, only with effect from May 14, 2015, by virtue of provisions of Section 67 itself, such reimbursable expenditure or cost would also form part of valuation of taxable services for charging service tax. Though, it was not argued by the Learned Counsel for the Department that Section 67 is a declaratory provision, nor could it be argued so, as we find that this is a substantive change brought about with the amendment to Section 67 and, therefore, has to be prospective in nature….."

In view of above, the impugned order cannot be sustained and the same is set aside. Appeal is allowed.

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

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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