CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 1467 of 2012

(Arising out of Order-in-Original No.03/2012-ST dated 07.03.2012 passed by the Commissioner of Central Excise, Customs and Service Tax, Calicut.)

Georgy george
Kottakappally House,
Kunnumpuram, Kalpathy P.O.,
PALAKKAD – 678 003.
Appellant(s)

VERSUS

The Commissioner of Customs,
Central Excise and Service Tax
C. R. Building, Mannachira,
Calicut – 673 001.
Respondent(s)

APPEARANCE:

Shri M. Saravanan, Chartered Accountant for the Appellant.

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

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

FINAL ORDER NO. 20209 /2026

DATE OF HEARING: 27.10.2025

DATE OF DECISION: 26.02.2026

PER: R. BHAGYA DEVI

This appeal is filed by the appellant Shri Geogy George, PWD Contractor against Order-in-Original No. 3/2012-ST dated 07.03.2012 passed by the Commissioner of Central Excise, Customs and Service Tax, Calicut Commissionerate.

2. Briefly the facts of the case are the appellant is providing services under the category of Management, Maintenance or

Repair Services, Manpower Recruitment or Supply Agency and Works Contract Services. The Revenue noticed that the appellant had not discharged service tax on all the above services rendered by him, hence, notice was issued demanding service tax amount. The Commissioner in the impugned order held that the appellant was the contractor, hence, while undertaking contract works, he had to submit the list of the persons whom he had engaged for the contract work and the workmen were required to wear uniforms and display identity cards issued to them which clearly states that it is a labor contract only. Accordingly, it was held that the appellant was liable to pay service tax under the Manpower Recruitment Service Agency. With regard to the second issue, the services rendered by the appellant in respect of resurfacing, renovation, filling of potholes, laying new roads, widening of narrow roads, etc., to PWD/CPWD is held to be liable to service tax under the category of Management, Maintenance or Repair Service. Similarly demands were also confirmed on Works Contract Services and in all the above cases, demands were confirmed invoking the extended period of limitation and imposing Penalty under section 78 of the Finance Act 1994. Aggrieved by this order the appellant is in appeal before us.

3. The Learned Counsel at the outset submits that an amount of Rs.72,225/- confirmed under the Works Contract Services is not being contested, hence, the same is upheld. With regard to Management, Maintenance or Repair Services, it is submitted that the Government in Finance Act, 2012 inserted Section 97 a special provision for exemption from payment of service tax on the services related to Management, Maintenance or Repair of roads with retrospective effect, hence, the same cannot be sustained.

3.1 With regard to Manpower Recruitment or Supply Agency Service, it is submitted that the work carried out by the appellant is Handling of cylinders, Loading/Unloading, Haulage, Cartage, Clearing Work etc., to Indian Oil Corporation (bottling plant) Cochin. As per the conditions of the contract, it is submitted that under the Contract Labour (Regulations and Abolition) Act, 1970, one had to comply with all provisions as per the act and laws. It is submitted that as per Clause 21 of the tender document, the contractor had to perform the work assigned to him and thus, it is the question of completion of work assigned to him and not just supply of manpower. Further as per Clause 26(5), the contractor is responsible for ensuring the work is done as per the defined quality failing which payment will be withheld as per the agreement and the nature of work. Relied on the following decisions:

- **Akriti Construction Pvt. Ltd. versus Commissioner Central Ex.: Jaipur 2017 (7) GSTL 478.**
- **Ramesh Chandra Tiwari versus Commissioner of Central Ex. and Customs, Aurangabad: 2018 (9) GSTL 312.**
- **Commissioner of Service Tax-II Calcutta Vs. Anmol Biscuit Ltd.: 2022 (62) GSTL 171.**
- **Infotech Enterprises Ltd. Vs. Commr of Cus., Central Ex. and ST Hyderabad IV: 2020 (43) GSTL 540**
- **Aditya Enterprises Vs Commr. of Cus. & Central Ex. Meerut-II: 2020 (35) GSTL 406 (Tri. Del)**

3.2 With regard to limitation, it is submitted that as per the agreement itself, no service tax was being charged or collected from Indian Oil Corporation Limited, hence, they have not collected any service tax, therefore, the question of invoking suppression does not arise, hence, penalty cannot be sustained.

4. The learned Authorized Representative (AR) on behalf of the Revenue reiterating the findings in the impugned order submits that the appellant is liable to discharge service tax both on Manpower Recruitment or Supply Agency Service and Works Contract Service.

5. Heard both sides. At the outset, since, the appellant is not contesting the demand on Works Contract Services, the same is upheld.

6. With regard to the services rendered in respect of roads to PWD/CPWD, we find that the Finance Act, 2012 inserted Section 97 which reads as follows:

> "97. special provisions for exemption in certain cases relating to management etc., of roads. - (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16th day of June, 2005 to the 26th day of July, 2009 (both days inclusive.
>
> (2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section
> (1) been in force at all material times.
>
> (3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President." [emphasis supplied]."

Since the period of dispute in the present case is from 16.06.2005 to 31.03.2009, the said period is covered under the above exemption, hence, the demand under Management, Maintenance or Repair Service is set aside.

7. With regard to Manpower Recruitment Services, we find that there is no dispute that as per the tender document, the work involved is Handling of cylinders, Loading/Unloading, Haulage, Cartage, Clearing Work etc. to Indian Oil Corporation (Indane bottling plant) Cochin. It is also not disputed that as per the conditions of the contract, the appellant had to obtain appropriate license under the Contract Labour (Regulations & Abolition) Act, 1970 and had to comply with the same. Thus, it is not a simple Manpower Supply Service but overall services as

described above had to be rendered to IOCL. The IOCL vide letter dated 25.08.2009 has also informed the appellant that their contract was not a Manpower Supply Contract but a Works Contract, for which payment was released based on quantum of work and not based on number of workers employed. There is also no dispute that no service tax was paid by IOCL to the appellant. In view of the above, we do not find any cogent reasons to confirm the demand under the category of Manpower Recruitment or Supply Agency Service and hence, the same is set aside. Moreover, the decisions relied upon by the appellant also clearly observe that the mere fact that Manpower Supply is a part of the contract cannot itself deemed to be Manpower Supply when the works as per the contract are on a wholesome handling of services as described in the tender document in the present case. In view of the above, except for Works Contract Services where the appellant himself has admitted the liability, the demands for other two services are set aside.

Appeal is partially allowed.

(Order pronounced in Open Court on 26.02.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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