

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

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20232 of 2016

(Arising out of Order-in-Original No.BLR-EXCUS-004-COM-010-2015-16 dated 06.11.2015 passed by the Commissioner of Central Excise, Bangalore.)

**M/s. CAE Simulation
Technologies Pvt. Ltd.**

No.26/27, IVC Road,
Bandaramanahalli Village,
Uganavadi Post, Devanahalli Taluka,
Bengaluru - 560 110.

Appellant(s)

VERSUS

**The Commissioner of Central
Excise**

Bengaluru – IV Commissionerate,
2nd Floor, Central Revenue Building,
Post Box No.5400, Queen's Road,
Bengaluru - 560 001.

Respondent(s)

APPEARANCE:

Shri Akbar Basha, Chartered Accountant for the Appellant.

Shri B.N.N. Rajashekar, Superintendent, Authorised Representative for the Respondent.

CORAM:

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

Final Order No. 20727 / 2026

DATE OF HEARING: 27.05.2026

DATE OF DECISION: 10.06.2026

PER : R. BHAGYA DEVI

This appeal is filed by the appellant M/s. CAE Simulation Technologies Pvt. Ltd. who render services under the category of 'Management or Business Consultant Service, Manpower

Recruitment or Supply Agency Services and Information Technology Software Services’.

2. During auditing the records of the appellant, the Revenue officers noticed that for the period from October 2007 to March 2012, service tax was not being discharged by the appellant on the services received by them from their holding company, Canada under Reverse Charge Mechanism (RCM). Accordingly, notice was issued and the Commissioner in the impugned order on observing that the ‘secondment agreement’ held that technical personnel were provided to the appellant for which they were liable to pay service tax and accordingly, confirmed the demand of Rs.25,57,292/- under the category of manpower supply. The notice was also issued for various other services for which the demands were confirmed by the Commissioner in the impugned order along with interest. He also imposed equivalent amount of penalty under Section 78 of the Finance Act, 1994 and Rs. 10,000 under Section 77 of the Finance Act, 1994 for non-filing of returns. Aggrieved by this order, the appellant is in appeal before us.

3. The Learned Chartered Accountant (CA) submits that the following issues are involved in this appeal.

- whether tax liability arises on the technical services received from their parent company under reverse charge mechanism
- whether Service tax liability arises from the management services received from their associate company
- whether service tax is payable by the applicant on the common cost collected from the two associate companies

3.1 With regard to the first issue, it is submitted that the Secondment Agreement cannot be considered as providing technical services and the facts are distinguishable from the

facts in the case of **CE, CE & ST, Bangalore vs. Northern Operating Systems Pvt. Ltd.: 2022 (5) TMI 967- SC** decided by the Hon'ble Supreme Court and also extended period of limitation cannot be invoked since no willful misstatement of facts can be established. Further, it is submitted that out of the above liability Rs. 13,15,128/- are reimbursable expenses; hence, not liable to service tax as held by the Hon'ble Supreme Court in the case of **Union of India vs. Intercontinental Consultants and Technocrats Pvt. Ltd.: 2018 (10) GSTL 401 (SC)**.

3.2 With regard to the second issue, it is submitted that the demand is on the training given to their employees, which was conducted outside India and hence, the liability does not arise and it is also stated that the entire amount along with interest since paid prior to the issue of show-cause notice, the demand has to be limited to normal period.

3.3 With regard to cost sharing issue, it is submitted that the cost sharing arrangement was simply an arrangement to share the cost and it has nothing to do with any services being rendered or provided by the appellant and further, this cannot be treated as Business Support Services as there is nothing on record to prove that services are being rendered by the appellant; hence, this demand also needs to be set aside. Also arguing on Revenue neutrality, it is submitted that even if the taxes were paid, they were eligible for cenvat credit; therefore, there cannot be any intentional, willful reason for evading duty; hence, limitation does not arise and imposition of penalties also cannot be sustained.

4. The Learned Authorized Representative (AR) on behalf of the Revenue submitted that with regard to Manpower Recruitment or Supply Agency Service, the issue stands settled

by the Hon'ble Supreme Court in the case of **Northern Operating Systems Pvt. Ltd.** (supra); hence, the liability needs to be sustained. With regard to other issues, it is submitted that the Commissioner has in detail dealt with these issues and confirmed the demands and it is also to be noted that the appellant has paid the amounts accepting the liability; therefore, these demands needs to be confirmed.

5. Heard both sides. The appellant w.e.f. 15.11.2009 entered into Secondment Agreement which is between CAE Inc. Canada and CAE Simulation Technologies Pvt. Ltd., Bangalore. This Agreement was to provide qualified technical personnel who have the expertise as per the requirements of the appellant. The Commissioner in the impugned order at para 11.3 extracted below observes as follows:

"11.3 I find from the documents on record and also the submissions of the assessee that the amount paid to their holding company viz. M/s. CAE Inc., Canada is for the technical services provided to the assessee and also the amount is paid in foreign currency which include the salary paid to the personnel deployed by the holding company. Further, I find that the secondment agreement is between the assessee company and the foreign holding company for supply of technical personnel to assist the assessee in its business. As per the terms and the conditions of the said secondment agreement, the holding company CAE Inc., Canada has to provide the suitable technical personnel as per the requirement to be set by the assessee to match the criteria and the said personnel continued to be remunerated through the payroll of the CAE Inc., Canada for the purpose of continuation of social security, retirement, severance. Further, CAE Inc., shall ensure the seconded technical personnel acts in accordance with the instructions and directions of the assessee and all the expenses paid by the CAE Inc., towards the employment of the seconded technical personnel shall be reimbursed by the assessee which include salary, incentive, employment benefits, all out of pocket expenses, travel expenses paid by the CAE Inc. I also find from the

Expatriate assignment issued by CAE Inc., Canada to its seconded technical personnel, that the personnel continues to be the regular employee of CAE Inc even during the period of secondment and the services during the assignment is being counted for social security purpose of the said seconded personnel. Thus, there is a service in the nature of technical assistance provided by the holding company viz. CAE Inc., Canada to the assessee and accordingly I do not agree with the argument put forth by the assessee that it is a employer and employee relation and there is no service involved I also find that the benefits are accrued to the assessee by way of technical assistance and in turn the holding company is also benefited by way of reimbursement of the expenses incurred on account of the secondment of the technical personnel which is nothing but a clear commercial transaction. Accordingly, the said service received by the assessee from their foreign holding company is taxable under reverse charge mechanism in as much as the reimbursement is through foreign exchange.”

From the above, we find that the entire demand is based on the Secondment Agreement and the payment is towards the technical assistance received by the appellant. In their grounds of appeal, the appellant also submits that they agreed and paid service tax amount of Rs.12,42,164/- but contested the balance amount of Rs.13,15,128/-. We also find that at the time of audit, the appellant had admitted to having received the technical services from their associate company and accordingly, discharged service tax liability of Rs.12,42,164/- immediately along with interest. However, an amount of Rs.13,15,128/- which was demanded was paid under protest on the ground that it was reimbursable amount of the salary paid to the employee; hence, not liable to service tax. We agree with the appellant that the above of Rs.13,15,128/- being the salary paid to Mr. Micheal Thibault, one of the employees being the reimbursable salary not liable to service tax under technical services. We also note the total liability towards service tax payment was computed as Rs.25,57,292/- and the appellant had made payment of

Rs.12,42,164/- along with interest excluding the amount of Rs.13,15,128/- claiming it to be reimbursable salary amount. We accept the contention of the appellant that the reimbursable amount of Rs.13,15,128/- cannot be included for levy of service tax. Also, since there is no evidence of suppression of facts as the entire payments were based on their agreement placed on record, there is no question of suppression; hence, the extended period of limitation cannot be invoked. Accordingly, the demand is upheld for the normal period.

6. With regard to the second issue, the Commissioner in the impugned order has observed as follows:

"12. With regard to demand of service tax amounted to Rs.5,90,328/- on Management services received, the showcase notice has clearly brought out the nature of service received from their associate company viz M/s.CAE Aviation Training BV, Netherlands in as much as the assessee was discharging the service tax under reverse charge mechanism and the amount demanded is with regard to non-payment of service tax on certain payments made to their foreign associate company. The said nonpayment was noticed during the reconciliation of the value with the service tax paid at the time of audit of the accounts of the assessee by the department. I find that there's no disagreement by the assessee with regard to the demand in their submissions and the amount and for having accepted the liability, the assessee has paid the entire amount of demand along with interest which can be appropriated".

6.1 The appellant in their reply to the audit para have stated that *'In this regard we wish to state that we have erroneously missed to pay service tax on the above payment. We have discharged the service tax (including cess) of Rs.5,90,328/- along with interest of Rs. 3,22,432/-'*. Even in their reply to the show-cause notice, the appellant has only stated that these services were received from an employee and not from an independent service provider, which we find difficult to accept

since these services received from their associate company. In view of the above, we uphold the demand of service tax.

7. Similarly, an amount of Rs.2,32,961/- was also admitted and paid by the appellant which was confirmed by the Commissioner towards the technical services received by the appellant from their associate company. The Appellant has disputed this amount on the ground that they have received this amount on cost sharing basis; hence, not liable to service tax. Since there is no dispute that the above amount was paid for the services rendered by the associate company, the same is liable to service tax.

8. The demand at para 5 is upheld only for normal period; however, we find that the audit report was submitted on 11.12.2012, explaining the reasons for non-payment of service tax and the appellant having accepted the audit observations and having discharged the service tax payments along with interest, we do not find any reason to impose penalties on the appellant. Accordingly, all the penalties are set side.

Appeal is partially allowed.

(Order pronounced in Open Court on 10.06.2026.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)