

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

Appeal(s) Involved:

ST/514/2009-DB

[Arising out of Order-in-Original No. 21/2009 dated
16/03/2009 passed by Commissioner of Central Tax,
Bangalore North , Commissioner of Central Tax, Bangalore
North]

The Director, K.G.I.D.

17th Floor,v.v.tower,dr.ambedkar Veedhi,
Bangalore

Appellant(s)

Versus

**Commissioner Of Central Tax,
Bangalore North**

No-59, HMT Bhawan
Ground Floor, Bellary Road
BANGALORE - 560032
KARNATAKA

Respondent(s)

Appearance:

Mr. N.Manohar, Advocate

#11-4F, SRIRAMA COMPLEX
OPP, HALASURU METRO STATION,
HALASURU,
BANGALORE - 560008
KARNATAKA

For the Appellant

Mr. P.Rajan, AR

For the Respondent

Date of Hearing: 14/12/2018

Date of Decision: 14/12/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 21910 / 2018

Per : P. ANJANI KUMAR

M/s. Karnataka Govt. Insurance Dept. (KGID), the
appellants, have been issued a SCN alleging that they are

providing service under the category of "General Insurance Service and Life Insurance Service" defined under Section 65 (49) and Section 65 (41) of the Finance Act, 1994. The Commissioner of Service Tax, Bangalore vide order No. 21/2009 dated 16.03.2009 has confirmed the demand of Rs.3,47,68,717/- and imposed penalty under Section 76 and a penalty of Rs.5000/- under Section 77 of the Finance Act, 1994.

2. The Advocate for the appellants has submitted that KGID was started in the year 1981. The scheme of Life Insurance for the employees was started with a view to render financial assistance to the family members of the employee in case of death of the employee in service. The welfare scheme was made compulsory to all Govt. employees irrespective of their status or service condition. The scheme was granted exemption from nationalization under Section 118C of Insurance Act, 1938 and Section 44 (F) of LIC Act as amended by IRDA Act, 1999. The function of KGID is sovereign in nature and is implemented by virtue of Rule 20 & 21 of the Karnataka Govt. Servants (compulsory Life Insurance) Rules, 1958. Therefore, they do not come under the definition of 'insurance service' in terms of Section 65 (61) of Finance Act, 1994. CBEC has already considered and held that sovereign/public authority do not come

under levy of Service Tax. The activity is purely of public interest and is undertaken as mandatory and statutory function.

3. On the other hand, the Ld. AR has reiterated the findings of OIO.

4. Heard both sides and perused the records of the case. We find that the appellants are undertaking the activity which is a mandatory and statutory function. We find that Hon'ble High Court of Kerala while disposing the Writ Petition No. 15892/2008 observed, in respect of Kerala Govt. activity in similar manner, that the activity being perused by the petitioner in providing life insurance coverage to the employees of the State Govt. is part of its statutory obligations. We also find that CBEC vide Circular No. 89/7/2006-ST dated 18.12.2006 (issued from F.No. 255/1/2006-CX-4) held at Para 2 that:

"the issue has been examined. The Board is of the view that the activities performed by the sovereign/public authorities under the provision of law are in the nature of statutory obligations which are to be fulfilled in accordance with law. The fee collected by them for performing such activities is in the nature of compulsory levy as per the provisions of the relevant statute, and it is deposited into the Govt. treasury. Such activity is purely in public interest and it is undertaken as mandatory and statutory function. These are not in the nature of service to any particular individual for any consideration. Therefore, such an activity

performed by a sovereign/public authority under the provisions of law does not constitute provision of taxable service to a person and, therefore, no service tax is leviable on such activities”.

In view of the above, we find that the activity undertaken by the appellants is mandatory and in discharge of statutory obligation in the performance of sovereign functions of the State Govt. Therefore, the appellant’s case is squarely covered by the Circular cited above as far as “Life Insurance” is concerned. Though, it was mentioned in the SCN that the appellants are providing “General Insurance Service” no case has been made out and no demand has been confirmed in this regard.

5. In view of the above, impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Operative portion of the Order was pronounced
in Open Court on **14/12/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

Parveen...