CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20836 of 2017

(Arising out of Order-in-Appeal No. COC-EXCUS-000-APP-37 & 38/2017 dated 07.03.2017 passed by the Commissioner of Central Excise and Service Tax (Appeals-I), Cochin.)

M/s. Chettinad Logistics Private Ltd.
Rani Meyyammai Building,
No.5, KPK Menon Road, Ground Floor,
Willington Island,
Kochi – 682 003. ....**Appellant(s)**

VERSUS

The Commissioner of Central Excise,
Customs & Service Tax,
C.R. Buildings, I.S. Press Road,
Cochin – 682 018. ....**Respondent(s)**

WITH

Service Tax Appeal No. 20837 of 2017

(Arising out of Order-in-Appeal No. COC-EXCUS-000-APP-37 & 38/2017 dated 07.03.2017 passed by the Commissioner of Central Excise and Service Tax (Appeals-I), Cochin.)

M/s. Chettinad Logistics Private Ltd.
Rani Meyyammai Building,
No.5, KPK Menon Road, Ground Floor,
Willington Island,
Kochi – 682 003. ....**Appellant(s)**

VERSUS

The Commissioner of Central Excise,
Customs & Service Tax,
C.R. Buildings, I.S. Press Road,
Cochin – 682 018. ....**Respondent(s)**

Appearance:

Mr. Mr. G. Natarajan, Advocate for the Appellant.
Mr. Vinod Kumar Garhwal, Superintendent (AR) for the Respondent.

CORAM:

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

Final Order No. 21008-21009 /2026

Date of Hearing: 23.06.2026
Date of Decision: 23.06.2026

PER : P. A. AUGUSTIAN

The issue in the present appeal is regarding sustainability of the demand under the category of manpower service.

2. Appellant were providing various services under the categories of cargo handling service, transport of goods...etc. Alleging that the Appellant had short paid service tax for the period from 2012-2013 on the remuneration received by them towards rendering service classified under manpower recruitment or supply agency service, proceedings were initiated and show cause notice dated 15.04.2014 was issued for the period from April, 2012 to March, 2013 and show cause notice dated 20.04.2015 was issued for the period from 01.04.2013 to 31.03.2014. Thereafter Adjudication authority as per the Order-in-Original dated 30.11.2015 confirmed the demand and also imposed penalties under various provision of law. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order dated 07.03.2017 partially allowed the appeal. Aggrieved by said order, present appeal is filed.

3. When the appeal came up for hearing, Learned Counsel for the Appellant submits that the issue is no more res integra and settled as per the decisions. Learned Counsel submits that with effect from

01.04.2012, all employees of the group company of the appellant, M/s South India Corporation Limited (SICL) have been absorbed by the appellant into their rolls. But, continued their operations in Cochin for some time and hence those employees were again deputed to SICL by the appellant. The salary and other contributions paid by the appellant to such employees have been claimed as reimbursement by the appellant from SICL. It has been held by the authorities below that such activity would amount to supply of manpower service, as defined in Section 65 (105) (k) read with Section 65 (68) of the Finance Act, 1994 for the period upto introduction of negative list based levy of Service Tax (From 01.07.2012); and as a "service" as defined in Section 65B (44) of the Act, for the period from 01.07.2012 and Service Tax has been demanded on the amounts claimed by the appellant from SICL, towards reimbursement of salary. Learned Counsel submits that any amounts claimed as reimbursements can be included in the value of taxable service, only in accordance with Rule 5 of the Service Tax (Determination of Value) Rules, 2000. But, the said rule has bene struck down as being ultra vires to the parent provision, viz., Section 67 of the Finance Act, 1994, by the Hon'ble Delhi High court in the case of **Intercontinental Consultants and Technocrats Pvt. Ltd. Vs. UOI - 2013 (29) STR 9 Del**, which has also been upheld by the Hon'ble Supreme Court as reported in 2018 (10) GSTL 401 SC. Subsequently, the lacuna pointed out by the Hon'ble Supreme Court has been overcome only with effect from 14.05.2015, by making suitable amendments in Section 67 of the Act. The period involved in these appeals are prior to this date (April 2012 to March 2014). Hence, the demands of Service Tax confirmed on the appellant, along with demand of interest and imposition of penalties are not at all sustainable in law and liable to be set aside. Without prejudice to the above, the deputation of employees between group companies cannot be considered as rendering any supply of manpower service, as held in various decisions, more particularly, **Commissioner of ST Vs. Arvind Mills Ltd. - 2014 (35) STR 496 Guj HC.**

4. Learned Authorized Representative (AR) reiterated the finding of the impugned order.

5. Heard both sides. We find that the demands against reimbursable expenses are included in the value of taxable service only as per Rule 5 of the Service Tax Rule, 2000. Since said provision was struck down as being as ultra-virus by the Hon'ble High Court in the matter of **M/s Inter Continental Consultant and Techno Parks Pvt Ltd,** demand is unsustainable.

6. Accordingly, appeal is allowed with consequential relief if any in accordance with law.

(Operative part of this Order was pronounced in Open Court
on conclusion of the hearing.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Gb/Raja