IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

Appeal No.	Appellant	Respondent
ST/41980/2015	TVS Automobile Solutions Ltd.	Commissioner of GST and Central Excise, Madurai
ST/41981/2015	TVS Automobile Solutions Ltd.	Commissioner of GST and Central Excise, Madurai
ST/42339/2015	Commissioner of GST & Central Excise, Madurai	TVS Automobile Solutions Ltd.

(Arising out of Order-in-Original No. 8 & 9/2015 dated 30.6.2015 passed by the Commissioner of Central Excise, Madurai)

Appearance

Shri N. Venkataraman, Senior Advocate assisted by
Shri M.N. Bharathi, Advocate for the Appellant
Shri A. Cletus, Addl. Commissioner (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing : **01.08.2018**
Date of Pronouncement: **17.09.2018**

Final Order Nos. **42427-42429 / 2018**

Per Bench

The assessees are inter alia, engaged in servicing of motor vehicles and also trading of automobile parts to franchisees and vehicle customers who avail services at the workshop. Vide a letter dated 1.12.2011, the assessees informed the Central Excise authorities inter alia that

- They are engaged in the business of multi-brand car servicing and also trading of automobile parts to franchisees and to vehicle customers who are availing services at their workshops;
- They are also paying service tax at 10.30% for all the services for labour amounts, wherever applicable;
- In the case of availment of CENVAT credit they have opted to pay 5% of tax in the gross profit on the trading activity as per Rule 6(3) of the CENVAT Credit Rules, 2004; and
- They will be availing credit for all the input services, except certain input services if used for exclusively rendering any exempted services.

1.1 Vide another letter Ref. CO/ST/44 dated nil, the assessees clarified that they at arrived 5% of difference between sale price on the cost of goods sold, which may be called as gross profit; that in their goods the difference between sale price and cost of goods sold is more than 10% of cost of goods; that such computation was done as per Explanation (C) to Rule 6(3) of CENVAT Credit Rules, 2004 vide Notification No. 13/2011-CE (NT) dated 31.3.2011. In response, the jurisdictional Assistant Commissioner vide letter dated 29.12.2011, informed the assessees to pay an amount equal to 5% on taxable value determined under Section 67 of the Finance Act, 1994 i.e. 5% of the gross value of the franchisee service and servicing of motor vehicles (both value of goods sold and service charges received). The assessees were reminded by the jurisdictional Superintendent vide letter dated 2.3.2012 asking them to follow the procedure as advised. However, in response, the assessee vide letter dated 8.3.2012, reiterated their reply and further added that:-

- They buy and sell parts as a pure trading activity, which is governed by the definition of 'exempted services' read with explanation to 1(C) to Rule 6(3) they have remitted 5% amount equivalent to duty after working out differences between sale price and the cost of goods sold;
- They also perform divisible contract of goods and rendition of servicing on motor vehicles. Here again, sale of parts constitute pure trading. They have already remitted a sum equivalent to duty in terms of explanation 1(C) to Rule 6(3) i.e. paying % on the value arrived at between the difference of sale price and cost of products.
- They executed indivisible works contract involving painting, tinkering and repair of accident vehicles. They further pointed out that the entire consideration including the cost of materials, consumables and labour is offered to service tax, being a works contract. They have neither claimed exemption nor cleared the goods as non-taxable

sale transaction. Having paid service tax on the entire value, the question of applying explanation 1(C) to Rule 6(3) for these transactions does not arise; and

- They also render pure labour and service contracts which do not involve any transfer or sale of materials. Service tax has been remitted on the entire labour cost and here again Explanation 1(C) to Rule 6(3). The assessee concluded that the request to pay a sum equal to duty for the entire sales turnover, is clearly impermissible and is sought to be re-assessed.
- They do not have any other transaction at present to be governed by explanation 1(C) to Rule 6(3) and
- Thus, the request to pay a sum equal to duty for the entire sales turnover is clearly impermissible and is sought to be re-assessed.

1.2 A show cause notice dated 11.6.2013 was issued to the assessee inter alia alleging that the goods sold to service recipient of franchisee services and servicing of motor vehicles is not trading of goods but is actually sale of goods in the course of providing taxable service; hence value of such goods sold during the course of providing franchisee service and servicing of motor vehicles it to be included in the gross value of taxable services under Section 67 of the Finance Act, 1994; that the assessees are liable to pay an amount of 5% of gross value of exempted services as per Explanation 1(a) to Rule 6(3) and Rule 6(3A) of CENVAT Credit Rules, 2004 r/w Rule 2(e); in addition to payment of 5% on gross profit of trading activity as per Explanation 1(C) to Rule 6(3) and Rule 6(3A) of CENVAT Credit Rules, 2004.

1.3 The goods sold to service recipients of franchisee services and servicing of motor vehicle services is not trading of goods, but is actually sale of goods in the course of providing taxable services (franchisee service and servicing of motor vehicles)

1.4 In view of the above, it appears that the value of such goods (sold during the course of providing taxable services) is to be included in the gross value of taxable services under Section 67 of the Finance Act, 1994 and that the assessee are liable to pay an amount of 5% on gross value of exempted services as per Explanation 1(a) to Rule 6(3) and 6(3A) of CENVAT Credit Rules, 2004 read along with Rule 2(e), in addition to payment of 5% on gross profit on trading activity as per Explanation 1(C) to Rule 6(3) and 6(3A of CENVAT Credit Rules, 2004.

1.5 On such basis, the show cause notice proposed demand of an amount of Rs.95,94,743/- as service tax liability for the period April 2011 to March 2012 with interest thereon and also for imposition of penalties under various provisions of law. For subsequent period, April 2012 to June 2012, statement of demand dated 23.4.2014 was issued on identical grounds proposing demand of an amount of Rs.30,69,417/- with interest thereon and for imposition of penalty under Rule 15 of CENVAT Credit Rules, 2004. Both the show cause notice and the statement of demand were adjudicated in a common order dated 30.6.2015 (impugned order) wherein the tax proposed in the show cause notice / statement of demand were confirmed along with interest. Penalties were also imposed as proposed in the respective show cause notice / statement of demand. Aggrieved, the assessee is before Tribunal in Appeal No. ST/41980 & 41981/2015 primarily on the following grounds:-

i) Whether the activity of trading could be considered as falling under the definition of exempted service prior to 1.7.2012 and after 1.7.2012?

ii) Whether goods sold during provision of service are goods consumed or used in the course of provision of service could be excluded for the purpose of valuation of taxable service

    a. In other words, whether value of goods sold which are used or consumed in the course of providing taxable service could be excluded for the purpose of computing taxable value of service

iii) Whether in the facts of this case the appellants over and above the payment of 5% of the value of the exempted service namely trading, should include the same in the value of taxable service and whether the benefit of the Notification No. 12/2003-ST can be denied? Whether Commissioner was right in demanding over and above 5% / 6% payment on value of exempted service calculated as per explanation 1(C) to CENVAT Credit Rules 6(3D) and again demanding separately 5% or 6% on the gross profit on sales?

iv) Whether in the facts and circumstances of the case amount demanded with interest can be sustained.

v) Whether in the facts and circumstances of the case penalty under Rule15 can be sustained.

1.6 Department has also come in appeal against the impugned order before this forum in Appeal No.ST/42339/2015 primarily on the following grounds:-

i. It could be seen from the show cause notice dated 11.06.2013 and the statement of demand dated 23.04.2014 that the charge against TVS was that the method adopted by them for payment of amount under Rule 6 of CENVAT Credit Rules, 2004 was wrong as they had adopted the method provided under Explanation 1(C) to Rule 6 instead of Explanation 1(a) to Rule 6 and sought to demand 5% of the total value of spares sold by them during the course of providing the services under MRS/FRA though exempted under

Notification No. 12/2003 ST dated 01.03.2003 was covered by the definition of 'exempted service' value in terms of definition of under cause of Rule 2 of CENVAT Credit Rules, 2004. The argument provided in the notice was that the value of goods traded, as claimed by the notice, was actually value of goods sold during the course of providing the above services.

ii. It could be seen from the notice and the documents available on file that the facts were quite different. It is seen that the notice had sold spares during the course of provision of taxable services namely MRS as is evident from the sample invoices available in the file wherein TVS had indicated the same vehicle registration number which was serviced in the sale invoice also thus connecting the sales to the services provided by them. In respect franchisee service also the franchise was given for servicing of motor vehicles under the brand name of TVS and the spares required for such service were also sold by TVS. Thus in respect of both types, the sales has a direct connection to the services rendered by TVS and so the value of such goods sold would form part of the gross value of service in terms of Section 67. But as there is clear evidence in the invoice to show that the goods were sold and that there was no evidence on record to show that they had availed CENVAT on such goods by TVS, the value of such goods sold during the course of provision of services were eligible for the exemption under Notification No. 12/2003 ST dated 01.03.2003 for the purpose of service tax. However for the purpose Rule 6(3)(i) of CENVAT Credit Rules, 2004 such value had to be treated as an exempted value 'in terms of the definition of exempted service which is defined under Rule 2(e) of the CENVAT Credit Rules, 2004.

iii. Hence, for the purpose of amount payable under Rule 6(3) (i) of the CENVAT Credit Rules, 2004 the exempted value had to be taken in to account and therefore the notice was liable to pay an amount equal to 5% of such exempted services 'provided under clause€ of Rule 2 of CENVAT Credit Rules, 2004. The adjudicating authority has not given any findings either to support this aspect or counter the arguments of the notice and has simply confirmed the demands proposed in the show cause notice and statement of demand. Therefore the order of the adjudicating authority is a non-speaking order.

1.7 On these grounds, Revenue inter alia prayed for remand of the case for fresh adjudication.

2. On the date of hearing, on behalf of the assessee, ld. Senior Advocate Shri N. Venkataraman put forth various arguments and contentions which can be broadly summarized as under:-

(a) The assessees are engaged in following activities:-

(i) Buying and selling parts as pure trading activity

(ii) Indivisible works contract for vehicles

(iii) Pure labour and service contract when sale of materials

(iv) Divisible contract of goods and rendition of servicing. There is no controversy in respect of these activities except in relation to that involving divisible contract of goods and servicing.

(b) The appellant themselves only had informed the department vide their letters dated 1.12.2011 and 8.3.2012 regarding the various types of activities done by them and also in particular regarding the manner of reversal of CENVAT credit taken in respect of such contracts.

(c) The adjudicating authority instead of providing arguments as to why the method adopted by TVS for payment of amount under Rule 6(3) of CENVAT Credit Rules, 2004 was wrong, has elaborately gave findings to the effect that the value of materials sold by them were to be included in the value of services as per Section 67 of the Act ibid and that as the Assessee had not fulfilled the conditions stated in the notification No. 12/2003 St dated 01.03.2003 namely "credit of duty paid on goods and materials sold has been taken under provisions of CENVAT Credit Rules, 2004 and not paid the amount equal to such credit availed before the sale of such goods and materials" were not eligible for the exemption provided in the said notification. In the further paras also the adjudicating authority had elaborately discussed citing the instructions of the Board in Circular N0. 96/7/2007 ST acted 23.08.2007, citing examples of invoices raised by the notice and discussing the provisions of Section 67 of the Act and concluded that the Assessee was not eligible for the exemption under No0tification No. 12/2003 ST dated 01.03.2003 and that the values of materials sold by them were to be added to the taxable value of services under MRS/FRA services.

(d) The show cause notice itself contains contradictions. On one hand, the notice alleges that traded as sold and exempted, and at the same time, the notice also alleges that the value of service should include value of materials sold also.

(e) The notice treats “sale” as other than “trading” and accordingly seeks to recover an amount equivalent to 5% of value of sale without giving any benefit of abatement.

2.1 In response to further letter from department appellant had vide their letter dated 5.1.2012 clarified inter alia that in respect of sale of products, they are paying 5% on different between sale price and the purchase price, that no input credit is taken and hence no duty is payable.

2.2 In reply to the show cause notice, the appellant had inter alia made the following submissions:-

2.3 The following are some of the submissions taken by the appellants in their reply to Show Cause Notice:-

(i) The allegation that the method of calculation of amount payable at the rate of 5% is not correct is not tenable in law as they have paid the said amount based on explanation 1© of Rule 6(d) of the Cenvat Credit Rules.

(ii) The appellants buy and sell parts as a pure trading activity which is covered under exempted services 'read with rule 6(3) and 6(3D).

(iii) The appellants render service under divisible contract for sale of goods and service of motor vehicles. They have not claimed any exemption nor benefit on non-taxable sale transaction. Therefore Cenvat Credit Rule 6(1) and Rule 6(3) do not arise/ They provide pure labour and service contracts which do not involve any transfer or sale of materials. Therefore the demand on sales turnover does not arise.

(iv) The appellants placed reliance on Notification 12/2003 which excluded value of goods from taxable value. The appellants have paid appropriate sales tax/VAT on the value of materials and by virtue of the notification mentioned above, in cases of works contract service, only the service portion of the contract is taxable. Therefore the demand that the appellants ought to pay tax on the entire value including the value of materials sold is not acceptable.

(v) The greatest contradiction in the subject notice is that on one hand the notice seeks to include value of the parts sold in taxable value of taxable services and at the same time treats such sale as exempted service.

(vi) The appellants vide their reply to the Statement of Demand submitted, in addition to the grounds in their reply to Show Cause Notice, the following:-

(vii) The officer has not taken into consideration the letter written to the Deputy Commissioner dated 30.012014 before issuing the statement of demand wherein the case of Ketan Motors td (v) CESTAT, Nagpur was enclosed, in which it was held that, if a transaction involves only sale of parts, question of levying service tax would not arise at all".

(viii) Since Cenvat Credit Rules themselves use the expression trading as synonymous with sale as seen from the explanation 1(c)to Cenvat Credit Rules 6(3D) as referred to earlier, it is clear that the subject activity of sale of spare parts sold in the course of providing of the service to the vehicles is nothing but trading and falls under definition of exempted service prior to 01.07.2012 and that is the reason why the appellants have chosen to pay 5% of the value of exempted service i.e. on the difference between sale price and cost of goods sold or 10% on the cost of goods sold whichever is more. Similarly after 01.07.2012 for the same reason the appellants have treated sale/trading activity as falling under the exempted service and discharged the obligation under Cenvat Credit Rule 6.

Therefore, the Commissioner’s findings on such activity of sale as other than trading and also as other than sale as such cannot be accepted.

(ix) The commissioner erred in para 17 of the impugned order in denial of the notification benefit 12/2003-ST dated 10.03.2003 wherever it is applicable, by wrongly interpreting the activity of sale of spare parts as other than sale and also wrongly presuming that credit was taken on inputs which is not factually so. Therefore the finding at Para 18 of the impugned order is also not tenable. Submission made in earlier paragraphs may be taken into consideration in this context.

(x) In para 19 of the impugned order, the Commissioner contradicts the reasoning adopted for the demands in question. On the one hand, he gives a finding that the appellants are indulging in trading activity independent of any taxable service e and therefore they are required to pay an amount of 5% on the value of exempted service and at the same time he gives a finding that in addition to the payment of 5% of the gross value of exempted service the appellants should also pay 5% of the gross profit of the trading activity. On the one hand, Commissioner does not consider the activity of sale of parts as ‘trading’ falling under the exempted service and on the other hand for the purpose of demand, he treats the same as exempted service and invokes the provision of Cenvat Credit Rules 6(3) and explanation 1© to Cenvat Credit Rule 6(3D).

(xi) In para 21 of the impugned order the Commissioner gives a finding that the spares are not directly sold to the customers and there is no sale taking place over the counter and the customer brings a vehicle to the servicing station where the service engineer inspects the vehicles and prepares the job card with the details of the vehicle and the spares are directly delivered to the servicing engineer and accordingly he holds that the spares are consumed during the course of providing the service and no sale is taking place. The above findings are not correct in view of the decision of the Hon'ble Supreme Court in the case of Bharat Sanchar Nigam Ltd vs Union of India 2006(2) STR 161. Hence the reasoning adopted by the commissioner in para 21 based on alleged bifurcation of value of services and goods is also not correct.

(xii) In para24 of the impugned order the Commissioner has totally misunderstood the entire concept of sale and service and inclusion of sale value of the goods in the taxable value of service because of his wrong presumption and assumptions and basis which have already been refer to by the appellants in the grounds of appeal. The appellants have also aggrieved that, inspite of various decisions cited before him, Commissioner has not considered any of the said decisions.

(xiii) Even otherwise, the whole issue is one of the interpretation of law and rules and Appellants genuinely believed that they had compiled with provisions of Cenvat Credit Rules and provision relating to valuation.

(xiv) Therefore for the above reasons the resort to Cenvat Credit Rule 15 for the imposition of penalty is improper, illegal and unsustainable.

3. On the other hand, ld AR Shri A. Cletus reiterates the grounds of appeal. He also made submissions which can be broadly summarized as under:-

3.1 He submits that it is evident that the adjudicating authority instead of providing arguments as to why the method adopted by the assessee for payment of amount under Rule 6(3) of CCR was wrong, has elaborately gave findings to the effect that the value of materials sold by them were to be included in the value of services as per section 67 of the act ibid and that as the Assessee had not fulfilled the conditions stated in the notification No 12/2003 ST dated 01.03.2003 namely "credit of duty paid on goods and materials sold has been taken under the provisions of CCR and not paid the amount equal to such credit availed before the sale of such goods and materials". They were not eligible for the exemption provided in the said notification. In the further paras also the adjudicating authority had elaborately discussed citing the instructions of the board in circular No. 96/7/2001 ST dated 23.08.2007, citing examples of invoices raised by the notice and discussing the provisions of section 67 of the act and concluded that the Assessee was not eligible for the exemption under Notification N12/2003 ST dated 1.03.2003 and that the value of the materials sold were to be added to the taxable value of services under MRS/FRA services.

3.2 It could be seen from the notice and the documents available on file that the facts were quite different. It is seen that the notice had sold spares during the course of provision of taxable services namely MRS as is evident from the sample invoices available in the file wherein TVS had indicated the same vehicle registration number which was serviced in the sale invoice also thus connecting the sales to the services provided by them. In respect franchisee service also the franchise was not given for servicing of motor vehicles under the brand name of TVS and the spares required for such service were also sold by TVS. Thus in respect both types, the sale had a direct connection to the services rendered by TVS and so the value of such goods said would form part of the gross value of service in terms of section 67. But as there is clear evidence in the invoice to show that the goods were sold and that there was no evidence on record to show that they had availed Cenvat on such goods by TVS, the value of such goods sold during the course of provision of services were eligible for the exemption under Notification No12/2003 ST dated 01.03.2003 for the purpose of service tax However for the purpose Rule 6(3) (i) of CCR such value had to be treated as an 'exempted value' terms of the definition of exempted service which is defined under Rule 2(e) of the CCR.

3.3 Hence for the purpose of amount payable under Rule 6(3)(i) of the CCR the exempted value had to be taken in to account and therefore the notice was liable to pay an amount equal to 5% of such 'exempted value' in terms of Rule 3(3) (i) of CCR read with the above definition of exempted services 'provided under cause (e) of Rule 2 of CCR. The AA has not given any findings either to support this aspect or counter the arguments of the notice and has simply confirmed the demands proposed in the SCN & SOD. Therefore the Order of the AA is a non-speaking order.

3.4 Hence it is very obvious that the order passed by the Commissioner is not legal and proper and is not a speaking order and has not apprised the issues actually raised in the relates show cause notice. Hence, the impugned order may be set aside and the appeal remanded to the Commissioner for denovo adjudication.

4. Heard both sides.

5. We first take up the appeal of the department. The main grievance of the department is that the impugned order is a non-speaking order without giving detailed findings either to support or counter the arguments of the noticee but has simply confirmed demands proposed in the notice and the statement of demand. We find that the show cause notice had alleged in para 5.1 that "value of goods (sold during taxable service) is to be included in the gross value of taxable service under section 67 of the Finance Act, 1994". The same paragraph also alleges that "assessees are liable to pay an amount of 5% of gross value of exempted service as per explanation 1(a) to rule 6(3) and 6(3A) of CENVAT Credit Rules, 2004. In para 5.1 (iv) and (v), there is a proposition if the assessee opts to pay an amount of 5% of value of exempted goods under Rule 6(3)(i) of CENVAT Credit Rules, 2004, they are required to pay an amount equivalent to 5% of the gross value (both value of goods sold and service charges received); that value of exempted services under Rule 6(3)(i) read with Rule 2(e) of CENVAT Credit Rules, 2004 shall be determined as per Explanation 1(a) to Rule 6(3) and 6(3A) of CENVAT Credit Rules, 2004 rather than Explanation 1(c) …..".. We find that these are the only two alleged infractions raised in the show cause notice. There is no other allegation or infraction that has been brought out in the show cause notice dated 11.6.2013

are for that matter in the statement of demand dated 23.4.2014.

5.1 We find that the adjudicating authority in the impugned order dated 30.6.2015 has framed the issue in para 17 as under:-

> *"Now the question is whether the value of the goods sold (traded) during the course of providing taxable services is to be included in the gross value of taxable services under section 67 of the Finance Act, 1994".*

5.2 However, in the same paragraph and in paragraph 18 that follows, the adjudicating authority has gone into the aspect of whether Notification 12/2003-ST dated 1.3.2003 has been fulfilled by the assessee in this case. Discernibly, non-fulfillment of Notification No. 12/2003-ST was not an allegation or charge raised in the show cause notice. True, para 4.4 of the notice dated 11.6.2013 did reproduce a portion of the Notification 12/2003-ST, however, without making any reference or connection to the facts of the case or making any allegation that the conditions of the notification have been violated by the department. We further find that in para 19, the adjudicating authority has made a reference to Circular No.96/7/2007-ST dated 23.8.2008 which had inter alia clarified that where spare parts are used by a service station for servicing of vehicles, service tax should be levied on the entire bill including the value of the spare parts. That however service provider is entitled to take input credit of excise duty paid on such parts or any goods used in providing service wherein value of such goods has been included in the bill. We are unable to fathom why the adjudicating authority has chosen to apply the facts of the case to the said circular dated 23.8.2008, particularly, when the said circular pertains to a period prior to the amendment introduced under Rule 2(e) of CENVAT Credit Rules, 2004 amplifying the definition of exempted service to include "trading". Further, we find that based on the such discussions, the adjudicating authority in para 20 of the order concluded that value of goods sold is to be included in the gross value of services as assessee has not fulfilled the conditions laid down in Notification 12/2003-ST.

5.3 We also find that in para 17 of the impugned order, the adjudicating authority has stated that assessee has taken credit of duty paid on goods and materials sold by them. Ono the other hand, as per the letter dated 5.1.2012 of the assessees to the jurisdictional Assistant Commissioner at point No. 5 relating to "sale of parts to franchisees" they have averred that "no input credit is taken and hence no duty is payable".

5.4 The assessee also, in their grounds of appeal and other contentions made by them, have consistently found fault with the adjudicating authority which have already been set out above. For example, the appellant has submitted that the Commissioner has contradicted in para 19 of the impugned order, the reason adopted for the demand in question. So also appellant has contended that the reasoning adopted by the Commissioner in para 21 based on alleged bifurcation of value and service of goods is not correct. Appellant has also argued that in para 24 of the impugned order, the Commissioner has totally misunderstood the entire concept of sale and service and inclusion of sale value of the goods in the taxable value of service.

6. From the discussions and findings herein above, it is evident that the order of the adjudicating authority has not addressed the allegations and concerns raised in the show cause notice but has instead veered off into other areas which have not been alleged in the notice or in the statement of demand. In these circumstances, we find merit in the contentions of the department / Revenue that the adjudicating authority has not given any speaking order based on the allegations and charges proposed in the notice / statement of demand. As found supra, even the assessee has found fault with the reasonings adopted by the adjudicating authority. This being so, the impugned order not having addressed the allegations in the show cause notice but having only confirmed the proposed demands on other grounds cannot be sustained.

We therefore are inclined to accept the prayer made by the Revenue seeking remand of the case for fresh adjudication based on the allegations and charges made out in the show cause notice. So ordered.

7. Coming to the assessee's appeal, while there are indeed number of persuasive arguments put forth by ld. Senior Advocate, in view of our decision to remand the matter for denovo adjudication, we also allow the present appeals of the assessee by way of remand. Hence in the denovo adjudication, the points and arguments raised by both sides will be addressed by the adjudicating authority, after giving sufficient opportunity to both parties to present their case. All the appeals are allowed by way of remand.

(Pronounced in court on **17.09.2018**)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

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