

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI,
COURT HALL – I**

Service Tax Nos. 41520 & 41521 of 2015

(Arising out of Order in Appeal No. 60 & 61/2015-ST dated 10.4.2015 passed by the Commissioner of Central Excise (Appeals-I), Coimbatore @ Salem Commissionerate)

And

Service Tax No. 40542 of 2016

(Arising out of Order in Appeal No. 132/2015-ST dated 05.12.2015 passed by the Commissioner of Central Excise (Appeals-I), Salem)

Perundurai Lorry Urimaiyalargal Sangam

30, Kovai Main Road
Perundurai – 638 050.

Appellant

Vs.

Commissioner of GST & Central Excise

No.1, Foulks Compound
Anai Medu, Salem – 636 001.

Respondent

APPEARANCE:

Shri V. Ravindran, Chartered Accountant for the Appellant
Shri Sanjay Kakkar, Authorized Representative and
Shri M. Selvakumar, Authorized Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)

Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NOS. 41370-41372/2025

Date of Hearing : 30.06.2025

Date of Decision: 26.11.2025

Per M. Ajit Kumar,

All these appeals involve a common issue and hence they were heard together and are disposed by this common order.

2. Brief facts of the case are that Perundurai Lorry Urimaiyalargal Sangam (**PLUS**), the appellant is registered for providing service under

'Mandap Keeper Service' and are paying service tax on such service provided by them. On verification of records, it was noticed by the department that the appellant was supplying Tanker Lorries to M/s Bharat Petroleum Corporation Ltd (**BPCL**) and collected Lorry freight charges. The appellant appeared liable to pay service tax under "Supply of Tangible Goods Service' on such freight charges but had not done so. Again, the appellant received certain other amounts from M/s. BPCL in the name of dealer commission, turnover discount, etc., which are not a part of this appeal and are hence not taken up for consideration. Show Cause Notice was issued to the appellant for the period from 01.04.2012 to 30.06.2012 proposing to demand service tax under the category of Supply of Tangible Goods Services. Subsequent SCNs came to be issued for the period from 01.07.2012 to 31.03.2013 and 01.04.2013 to 31.03.2014. After due process of law, the Ld. Original Authority confirmed the demands under the category 'Supply of Tangible Goods Service' along with interest and imposed penalties under the provisions of Finance Act, 1994. The appellant preferred appeals before, the Ld. Commissioner (Appeals) and the same were rejected. Hence these appeals before this Tribunal against the impugned order.

3. The Ld. Counsel Shri V. Ravindran appeared for the appellant and Ld. Authorized Representatives Shri Sanjay Kakkar and Shri M. Selva Kumar appeared for the respondent.

3.1 The Ld. Counsel for the appellant submitted that in **Order in Appeal No. 60 & 61/2015-ST** dated 10.4.2015, pertaining to OIO S. No 83/2014-ST(AC/Erode-I) dated 25.11.2014 and OIO S. No

94/2014-ST(AC/Erode-I) dated 23.12.2014 the learned Assistant Commissioner of Central Excise, Erode – I, had treated the lorry freight charges for services provided by PLUS, under 'Supply of Intangible Goods' instead of 'Goods Transport Agency', the details of which he submitted as per the Table - I below.

TABLE - I

S. No.	OIO No.	Category & Period	Value of Taxable service Rs.	Tax Demanded Rs.	Appeal preferred	Remarks
1.	OIO S. No 83/2014	Lorry Freight Charges 01.04.2012 to 30.06.2012	954779	118010	Yes	Appeal made with CESTAT Chennai
2.	OIO S. No 94/2014	Lorry Freight Charges 01.07.2012 to 31.03.2013	2284931	282418	Yes	Appeal made with CESTAT Chennai
		Total	3239710	400428		

In **Order in Appeal No 132/2015 ST** dated 05.12.2015 pertaining to OIO S. No. 10/2015 ST(AC/Erode I) the Ld. Assistant Commissioner of Central Excise Erode – I, has treated the lorry freight charges for services provided by PLUS, under 'Supply of Intangible Goods' instead of 'Goods Transport Agency', the details of which he submitted as per the Table - II below.

TABLE – II

S. No.	OIO No.	Category & Period	Value of Taxable service Rs.	Tax Demanded Rs.	Appeal preferred	Remarks
1.	OIO S. No. 10/2015 ST	Lorry Freight Charges 01.04.2013 to 31.03.2014	3460977	427776	Yes	Appeal made with CESTAT Chennai

He submitted that the service provided by PLUS as per the OIO's mentioned in the TABLE's above was not covered under "Supply of Tangible Goods Service", for the following reasons:

- a. "Taxable service" means any service provided or to be provided to any person, by any other person in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring the right of possession and effective control of such machinery, equipment and appliances.
- b. Here PLUS has not transferred the right of possession of its vehicles but transferred the control to operate the vehicles to BPCL decision. All the vehicles are being operated as per the direction of BPCL and PLUS has no control over the operation of the vehicle.
- c. Hence the definition of "Supply of Tangible Goods Service" is not applicable for PLUS.
- d. PLUS has got full right to be eligible to be classified under "Goods Transport Agency" and not under "Supply of Tangible Goods Service".
- e. PLUS has carried out Goods Transport Agency only for BPCL, and not for anyone. Since BPCL has paid all the services tax payable under Reverse Charge Mechanism, there is no liability of service tax payable by PLUS, as it would amount to "Double Taxation"

The Ld. Counsel submitted the following case laws in support of the appellant's stand of not having any Service Tax Liability:

(1) **Erode Lorry Owners Association Vs The Commissioner of GST & Central Excise, Salem** in Appeal No: ST/40738/2015 and Final Order No: 40368/2019

(2) **Perundurai Lorry Urimaiyalargal Sangam, Perundurai Vs Commissioner of GST and Central Excise, Salem** in Appeal No. 42214 of 2014 and Final Order No 40510/2024

He prayed that the impugned orders may be set aside.

3.2 The Ld. Authorized Representative Shri Sanjay Kakkar appearing for revenue, took us through the impugned orders and reiterated the findings given therein.

4. We have heard the contesting parties and perused the appeals. The dispute pertains to the supply of tanker lorries to M/s BPCL. The appellant has stated that they have transferred the control to operate the tanker lorries to BPCL. All the vehicles are being operated as per the direction of BPCL and PLUS has no control over the operation of the vehicle. The service provided by them is covered under 'Goods Transport Agency'. Since BPCL has paid all the services tax payable under Reverse Charge Mechanism, there is no liability of service tax payable by PLUS, as it would amount to "Double Taxation".

5. The impugned orders pertain to the period from 01.04.2012 to 31.03.2014. We observe that a similar classification dispute regarding the service of supplying tanker lorries to BPCL—covering an earlier period from 01.04.2007 to 31.03.2012—was examined by a Coordinate Bench of this Tribunal in the Appellants' own case, as per **Final Order No. 40510/2024 dated 30.04.2024**. Paragraph 5.2 of that order states:

"The department has confirmed the demand of service tax under Supply of Tangible Goods Services. The appellant has received freight charges from M/s. BPCL for supply of lorries for transport of petrol. Even as per the Show Cause Notice, it is seen that the appellant has collected only freight charges. The appellant has not collected any amount as hire charges in addition to the freight charges. Further, the service tax on the freight charges has been paid by M/s. BPCL who is the service recipient. The Tribunal in the case of M/s. Erode Lorry Owners Association (supra) had considered the issue on very similar set of facts and held that the demand of service tax under Supply of Tangible goods Services cannot sustain. Following the said decision,

we are of the view that the demand cannot sustain and requires to be set aside. Ordered accordingly.”

6. Judicial discipline requires us to follow the judgment of the Coordinate Bench for an earlier period, especially when the issues therein have not been distinguished on facts by Revenue or the Order shown to have been set aside or modified by a superior Court.

7. We hence set aside the impugned orders and allow the appeals. The appellant is eligible for consequential relief, as per law. The appeals are disposed of accordingly.

(Order pronounced in open court on 26.11.2025)

Sd/-
(AJAYAN T.V.)
Member (Judicial)

Sd/-
(M. AJIT KUMAR)
Member (Technical)

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