

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

REGIONAL BENCH - COURT No. I

Service Tax Appeal Nos.42008 & 42009 of 2016

(Arising out of Order-in-Appeal No.98 & 99/2016 (STA-II), dated 30.06.2016 passed by Commissioner of Service Tax, Newry Towers, 3rd Floor, Plot No.2054, I Block, II Avenue, Anna Nagar, Chennai 600 040)

M/s. Arafaath Travels Pvt. Ltd.

.... Appellant

No.7, Century Plaza,
560-562, Anna Salai, Teynampet,
Chennai-600 018

VERSUS

Commissioner of GST & Central Excise ... Respondent

Chennai North Commissionerate
26/1, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

APPEARANCE:

Shri R. Viswanathan, Chartered Accountant for the Appellant
Smt. Anandalakshmi Ganeshram, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos.40565-40566/2026

DATE OF HEARING: 30.01.2026

DATE OF DECISION: 05.05.2026

Per: Shri Ajayan T.V.

Arafaath Travels Pvt. limited, the Appellant herein has preferred these appeals against OIA No.98 & 99/2016 (STA-II) dated 30.06.2016 (impugned orders). These appeals being interconnected and involving common issues, are taken up for hearing together and are disposed of by this common order.

2. The relevant facts are that the Appellant is registered service tax provider of air travel agency service. During audit, on

verification of the profit and loss accounts of the Appellant, it was noticed that the Appellant had collected visa and documentation charges from travellers/business entities towards obtaining visa for travel to Saudi Arabia, through the authorized agents of the Saudi Arabian embassy in Mumbai. The Department was of the view that the Appellant by acting on behalf of an intending traveller and enabling him to obtain visa from the Saudi embassy through the authorized agent was providing the taxable service of Commission Agent as provided under sl.no.vii of the definition of Business Auxiliary Services as defined under Section 65(19) of the Finance Act, 1994 (Act).

3. Therefore, a Show Cause Notice dated 11.01.2013 (SCN) was issued to the Appellant invoking the extended period of limitation on the allegation that the Appellant had not paid the required service tax on the said service and had not furnished the income received from the said service in the ST-3 returns and such facts would not have come to light but for the audit conducted. The SCN demanded service tax of Rs.13,04,044/- for the period from 2008-09 to 2011-12. A statement of demand dated 23.04.2014 (SOD) demanding a Service Tax of Rs.1,92,249/- for the subsequent period from April 2012 to June 2012 was also issued. After due process of law, the Adjudicating Authority passed the Order-in-Original No.90-91/2015-16-ST-II dated 29.02.2016 confirming the demand along with applicable interest and imposing an equivalent penalty under section 78 of the Act, in respect of the SCN, and confirming the demand along with interest and a penalty of Rs.19,225/- under Section 76 of the Act in respect of the SOD. The Adjudicating Authority also imposed a penalty of Rs.10,000/- each under Section 77 of the Act, in respect of the SCN as well as the SOD. Aggrieved, the Appellant filed an appeal before the Commissioner of Service Tax, (Appeals-II). The Appellate Authority vide the impugned order, upheld the orders in original while setting aside the penalties imposed

under Section 77 of the Act. Aggrieved, the Appellant has preferred this Appeal.

4. Shri R. Viswanathan, Ld. Chartered Accountant appearing for the Appellant, contended that the Appellate Authority has erred in not considering para 3 of CBEC Circular 137/06/2011-ST dated 24.11.2011 which specifically provided that visa facilitators are out of the definition of business auxiliary services. Ld. Consultant argued that the Appellant provides the service directly to the passengers for a fee and as a visa facilitator providing visa assistance directly to the individuals. It was emphasised that the Appellant is not acting on behalf of embassy. It was also submitted that Notification no. 22/97-ST dated 26-06-1997 provides that when air travel agents who, in addition to booking air tickets for passengers, also provide related services to passengers like procurement of visa, passport etc. for fees, the value of services for the purposes of Service Tax will be limited to the commission received from the airlines. It is therefore submitted that even in terms of this Notification, the fees received by the Appellant for procurement of visa is not subject to Service Tax. Ld. Consultant also urges that extended period of limitation cannot be invoked as the activities of the Appellant was known to the Department as can be seen from the correspondence detailed in the reply to SCN, including that with Audit as well as the details of various SCNs issued earlier. It is therefore prayed that the appeal be allowed. Reliance was placed on the decisions in ***Final Order No. S/1016/2012/CSTB/C-1 dated 04.7.2012 in the case of VFS Global Services Pvt. Ltd. vs. CST.*** And that in the case of ***M/s. Green Channel Travel Services Pvt. Ltd. vs. CST, 2012 (26) STR 527 (Tri-Ahmd)*** rendered by the Ahmedabad Bench of the Tribunal.
5. Smt. Anandalakshmi Ganeshram, Ld. Authorized Representative, appearing for the respondent, reiterated the findings in the impugned order. Ld. A.R. argued that the Board's Circular clarified that visa and attestation charges are

not liable to Service Tax only when the service is provided by a visa facilitator to the individuals directly and since the Appellant is providing the service through the authorized agent of the embassy, it cannot be considered that the Appellant is rendering the service directly to the individuals and is therefore acting as an intermediary. It is submitted that in both the decisions relied on, the Appellants therein provided services as a visa facilitator directly to the visa seekers and is therefore distinguishable.

6. We have heard the rival submissions and perused the material on record.
7. The sole issue that arises for consideration is the Service Tax liability on the appellant for the amount received as income/commission charged by him for rendering the services of obtaining visa.
8. Indisputably, the Appellant provides service to the passengers who travel to Saudi Arabia for obtaining Saudi Arabian Visa. Visas are issued by the Saudi Arabian Consulate at Mumbai. The Appellant has an office in Mumbai for coordinating the work. Thus, undisputedly the Appellant is interacting directly with the intending traveller while facilitating the procurement of visa. Further, we notice that the issue is no more res-integra, as a coordinate bench of this Tribunal in ***Green Channel Travel Services P. Ltd v. Commr. of ST, Ahmedabad, 2012 (26) STR 527 (Tri-Ahmd)***, has held as under:

"5. Ld. Counsel would produce a copy of C.B.E. & C. Circular No. 137/6/2011-S.T., dated 20-4-2011, wherein the Board has clarified that the service provided by visa facilitator in the form of assistance to individuals who intend to travel abroad, directly, does not fall under any taxable service under Section 65(105) of Finance Act, 1994.

6. We may reproduce the said circular here below:

Visa applications –

Service tax clarification on assistance for processing of visa applications

Circular No. 137/6/2011-S.T., dated 20-4-2011

F.No. 332/11/2010-TRU

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Excise & Customs, New Delhi

Subject : Assistance provided for processing visa applications - Regarding.

An issue has been brought before the Board, seeking a clarification as to whether service tax liability would arise on the assistance provided by visa facilitators, to individuals directly, for processing of visa applications.

2. The same has been examined. Assistance provided by a visa facilitator, for obtaining visa, to a visa applicant or for foreign employer does not fall within the scope of supply of manpower service. Visa facilitators, while providing visa assistance directly to individuals does not act on behalf of the embassies, as agents of the principal and hence service tax is not leviable within the meaning of business auxiliary service. Also where the assistance is rendered to an individual directly, by a visa facilitator, and the visa applicant pays the service charge on his own (meaning such service charge is not borne by any business entity), the same cannot be considered as support service for business or commerce.

3. Visa facilitators, merely facilitate the procurement of visa and directly assist individuals who intend to travel abroad, to complete the immigration formalities. Visa facilitators collect certain statutory charges like visa fee, certification fee, attestation fee, emigration fee, etc. from the visa applicant, which are remitted to the respective authorities, and in addition collect service charges for themselves as remuneration for the assistance provided by them to obtain the visa. Such a service provided by a visa facilitator, in the form of assistance to individuals directly, to obtain a visa, does not fall under any of the taxable services under Section 65(105) of the Finance Act, 1994. Hence service tax is not attracted.

4. However, service tax is leviable on any service provided other than assistance directly to individuals for obtaining visa, falling under the description of any taxable service, as classifiable under the appropriate heading. To cite a few instances, where in addition to rendering assistance directly to individuals for obtaining visa, visa facilitators may also act as agents of recruitment or of foreign employer, in which case, service tax is leviable to the extent under the service of 'supply of manpower'. In certain other cases, for example, a visa facilitator, may

be rendering visa assistance to individuals who are employed in a business entity, but the service charge may be paid by the business entity on behalf of those individuals, to the visa facilitator, in which case, service tax is leviable under 'business support service'.

5. Trade Notice/Public Notice may be issued to the field formations accordingly."

7. It can be seen from the above reproduced circular that the issue is now squarely settled by Board's circular.

8. In view of this, impugned order is set aside and appeal allowed." (emphasis supplied)

9. We also notice that in the decision in ***Globe Forex & Travels Ltd v. CCE, Jaipur-I, 2015 (37) STR 513 (Tri-Del)*** the Principal Bench of the Tribunal has held as under:

"6. As regards, the demand of service tax on the amount charged for arranging visa for their clients, we find that this activity is not covered by any of the clauses of the definition of Business Auxiliary Service as given in Section 65(19) of the Finance Act, 1994, therefore, we hold that this activity is not taxable under Business Auxiliary Service during the period of dispute and, hence, the demand of service tax on this amount is not sustainable."

10. Furthermore, we also find that the decisions in ***VFS Global Services Ltd v. CST, Mumbai, 2013 (30) STR 411 (Tri-Mumbai)***, ***Trinity Air Travels & Tours Pvt Ltd v. Commissioner of CGST & CE, Mumbai East, 2025 (394) ELT 81 (Tri-Mumbai)***, affirmed in ***Commissioner of CGST & CE, Mumbai East v. Trinity Air Travels & Tours Pvt Ltd, 2025 (394) ELT 25 (SC)*** are in similar vein.

11. We find that the Appellant is providing exactly the same services, which are discussed in para 3 of the said circular, noticed in the Green Channel Travel Services supra, and as clarified by the C.B.E. & C., the activity undertaken by the Appellant is not taxable under Section 65(105) of the Finance Act, 1994. Law is well settled that Revenue cannot argue against its own Circular. The decisions in ***Union of India v. Arviva Industries (I) Ltd, 2007 (209) ELT 5 SC and Vijay***

Krishnaswami @ Krishnaswamy Vijaykumar v. The Deputy Director, Income Tax (Investigation), 2025 INSC 1048 refer in this regard.

12. We also find merits in the contentions of the Appellant that in light of the various SCNs issued earlier, audit conducted and the correspondence on record, the Department was aware of the activities of the Appellant and thus the question of imputing any malafide to the Appellant does not arise. Therefore, we also hold that the invoking of extended period of limitation in the SCN was wholly untenable.
13. In light of the aforesaid discussion and for the reasons stated above, respectfully following the coordinate bench decisions supra, we hold that the impugned orders are liable to be set aside. Ordered accordingly.

The Appeals are allowed with consequential relief(s) in law, if any.

(Order pronounced in the open court on 05.05.2026)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)