

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 26030 of 2013

(Arising out of **Order-in-Original** No.07/2013-S.Tax dated 28.01.2013 passed by
Commissioner of Central Excise, Customs & Service Tax, Guntur)

M/s Polisetty Somasundaram Tobacco .. APPELLANT
Threshers Pvt Ltd.,
P.b.No. 54, D.no.8-24-31,
Mangalagiri Road,
Guntur,
Andhra Pradesh – 522 001.

VERSUS

Commissioner of Central Excise .. RESPONDENT
And Service Tax
Guntur
P.B.NO.331,
C.R.Building,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

APPEARANCE:

Shri Y. Sreenivasa Reddy, Advocate for the Appellant.
Shri B. Subhas Chandra Bose, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30568/2025

Date of Hearing: 01.12.2025
Date of Decision: 12.12.2025

[ORDER PER: ANGAD PRASAD]

Appellant M/s Polisetty Somasundaram Tobacco Threshers Pvt Ltd., (hereinafter referred to as the appellant) has filed this appeal against the order passed by the Commissioner of Central Tax, Guntur demanding Service Tax on Business Auxiliary Services (BAS) and on Goods Transport Agency Service (GTA) for the period from 01.04.2011 to 31.03.2012 along with interest and imposition of penalties under Section 76 and 77 of the Finance Act, 1994.

2. The facts in brief the appellant is into business of purchase and sale of unmanufactured tobacco and also undertakes threshing and re-drying of tobacco leaves on job work basis to other traders / exporters and for himself. The tobacco leaves are purchased and threshing and re-drying operations are taken on them. The resultant product also remains to be unmanufactured tobacco which is an agricultural produce.

3. Learned Counsel for the appellant that the threshing and re-drying on tobacco leaves is an activity in relation to agriculture and exempted vide Notification No. 14/2004-ST dated 10.09.2004 which reads as follows: "(b) Production of goods on behalf of the client." When a doubt arose whether the activity of threshing and re-drying operations on tobacco leaves is in relation to agriculture or not, the CBIC vide Circular No. 143/12/2011-ST dated 26.05.2011 clarified that the said operation is in relation to agriculture. Learned Counsel for the appellant submits that in spite of the clarification, Revenue started raising demands and when the case researched to this Hon'ble Tribunal, this Hon'ble Tribunal dropped the demands vide its Common Order No. A/30302-30350/2017 dated 22.02.2017 holding that the demands are not sustainable. Revenue's appeal filed in the Hon'ble Supreme Court against this Common order of this Hon'ble Tribunal, was dismissed vide order dated 16.07.2018 in Civil Appeal Diary No(s). 14831/2018.

4. Learned Counsel for the appellant submits that the said order of this Hon'ble Tribunal covers the demands issued to the present appellant also at sl. 35 and 48 of the order. The present appeal relating to the periodical demand missed for hearing when the batch matters were taken up. Since the issue is already covered in the common order, this appeal is also required to be allowed.

5. The second issue is demand of Service Tax of Rs. 4,15,188/- on freight charges paid on transportation of tobacco leaves which is an agricultural produce for auction platform to the plant/ godown/ gardening points. Such transportation is done by local private trucks and the operators will not issue any consignment note or any other document mentioning responsibility for the loss of goods in transit even a bill and hence, do not fall under the responsibility for the loss of goods in transit even a bill and hence, do not fall under definition of the term GTA under Section 65(50)(b) of the Act.

6. Learned representative of Department reiterates the findings given by Adjudication Authority.

7. Heard the argument of the appellant, Learned Counsel as well as Department and perused the record.

8. The issue related to Business Auxiliary Services (BAS) this Tribunal dropped the demands vide its Common Order No. A/30302-30350/2017 dated 22.02.2017. The Revenue's appeal against such order before Hon'ble Supreme Court the Hon'ble Supreme Court dismissed the revenue appeal vide order dated 16.07.2018. Therefore this issue already decided up to Supreme Court. In this regard the relevant para of Final Order No. A/30302-30350/2017 as follows:

"In view of the above, we are of the view that the activity of the assesses is in relation to the agriculture and not subject to service tax as a Business Auxilliary Service even before or after the negative list was issued on 01.07.2012. Hence, we find no merit in the impugned orders where the said activity of threshing and re-drying was brought under BAS. On this issue, the concerbed assessee-appellants will get the relief. By implication, Department's appeals against the relevant impugned orders which have set aside demands made by original authorities on BAS will require to be dismissed."

9. Therefore, the demand relating as well as interest and imposition of penalties is not sustainable.

10. As far as demand under GTA service is concerned the appellant engages local transport vehicles whenever transportation is required. These private truck operators do not issue any consignment note or any other document for undertaking the transportation. Since, the transporters did not issue any consignment notes or any other transport documents in any form in lieu of consignment note. Therefore, in the absence of issue of any document covering transportation of goods, the transporter does not become a GTA and hence, the reverse charge on the appellant does not arise.

11. Learned Counsel for the appellant in this regard relied on catena of decisions:

(a) Tibrewala Electromech Pvt Ltd., Vs Commissioner of Central Tax, Hyderabad-Iv Commissionerate vide Final Order dated 12.07.2023.

(b) Coromandel Agro Products & Oils Ltd., Vs CCE, Guntur [2018(11) TMI 172- Cestat-Hyderabad]

(c) Sai Sudhir Infrastructure Vs CCT, Tirupathi [G.S.T 2018(5) TMI 1678- Cestat- Hyderabad]

(d) Chartered Logistics Ltd., Vs Commissioner of Central Excise [2024 (16) Centax 473 (Tri-Ahmd)] confirmed in Commissioner of Ventral Excise, Ahmedabad Vs Chartered Logistics Ltd., [2024 16 Centax 474 (S.C)]

12. Appellant relied on catena of judgments related in which no any consignment notes.

(a) M/s Vedanta Ltd., Vs Commissioner of GST & Central Excise, Tirunelveli, [2023 (9) TMI 1063-Cestat Chennai]

(b) M/s Sivasakthi Engineering & Fabricators Vs Commissioner of Central Excise, Customs & Service Tax, Calicut, [2024 (5) TMI 995- Cestat Bangalore]

(c) M/s Vaishnav Marbles Pvt Ltd., Vs Commissioner of Central Excise, Central Goods & Service Tax, Udaipur, [2024 (5) TMI 274- Cestat New Delhi]

(d) M/s Startrek Logistics Pvt Ltd., Vs Commissioner of Central Excise, Bangalore, [2025 (5) TMI 154- Cestat Bangalore]

(e) M/s Bothra Shipping Services Vs Commissioner of Central Excise & Service Tax, Visakhapatnam, [2025 SCC Online CESTAT 3192- Cestat Hyderabad.

(f) M/s Tabassum Enterprises Vs Commissioner of CGST & Central Excise, Kolkata, [2025 (9) TMI 1275- Cestat Kolkata]

13. Now it is settled issue that where there is no consignment note in GTA service. The Department of Service Tax does not survive, therefore, impugned order relating to GTA service also not sustainable.

14. In view of the above discussion, no any merit in the impugned order, therefore, appeal is liable to allowed.

15. Appeal allowed.

(Order pronounced in the open court on 12.12.2025)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)