

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

REGIONAL BENCH - COURT NO. - I

**Service Tax Appeal No. 28137 of 2013**

(Arising out of **Order-in-Appeal** No.26/2013(T) ST dated 08.08.2013 passed by  
Commissioner of Customs, Central Excise and Service Tax (Appeals), Guntur)

**The Superintendent of Police IPS** .. **APPELLANT**  
**Chittoor**  
Chittoor,  
Andhra Pradesh - 517 001.

VERSUS

**Commissioner of Central Tax** .. **RESPONDENT**  
**Tirupati - CGST**  
P.B.No. 331,  
C.R.Building,  
Kannavvari Thota,  
Guntur,  
Andhra Pradesh - 522 004.

**APPEARANCE:**

None for the Appellant.

Shri K. Sreenivasa Reddy, 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/30600/2025**

Date of Hearing: 15.12.2025

Date of Decision: 15.12.2025

**[ORDER PER: A.K. JYOTISHI]**

The Superintendent of Police, IPS, Chittoor (hereinafter referred to as appellant) are in appeal against the order of the Commissioner (Appeals) dated 08.08.2013, whereby, a demand of Rs. 10,59,804/- was confirmed and upheld, whereas imposition of penalty under Section 78 and 77(2) was set aside.

2. The brief fact of the case is that the Department felt that consideration received from certain persons by the Police Department for providing security services would fall under Security Agency Services (SAS). The Commissioner (Appeals) analysed the provisions under Section 65(94) of Finance Act 1994 and inter alia, held that the term "business" used in the definition does not necessarily mean that service provider must have profit motives or it requires to be provided with commercial concern or otherwise and therefore, even if

there is no profit motives service tax can be demanded under the said category.

3. Though nobody appeared on behalf of the appellant, we have perused the appeal memorandum filed by the appellant, wherein, they have, interalia, taken the ground that security provided to M/s Indian Bank was in pursuance of Home Department's instructions and similarly security provided to one Mr. Mohan Babu was as per the order of the Government and hence the said services were nothing but sovereign and statutory function of the Police Authorities. Therefore, the sovereign functions of the Government are not liable to imposition of service tax. He has relied on the CBEC Circular dated 18.12.2006 and 23.08.2007 in support that any activities assigned to and performed by a sovereign/public authority under the provision of any law did not constitute taxable service and any amount/tax collected are not to be treated as consideration for the purpose of service tax. He has relied on certain case laws. He has also contested the invocation of extended period in the facts of the case.

4. Learned AR has re-iterated the findings of Commissioner (Appeals).

5. Heard both the sides and perused the records.

6. We find the short question involved in this appeal is whether the service tax can be demanded from the Police Department (appellant) in relation to certain security services provided to some individual and institutions, pursuant to certain Government circulars as well as court directives or otherwise. We find that in this regard, the similar issue come up before Co-ordinate Bench in the case of Superintendent of Police Vs Commissioner of Central Goods and Service Tax, Excise and Customs, Indore. The Tribunal, vide it's Final Order No. 51669/2023 dated 12.12.2023, examined the scope of SAS and relied on certain judgments including the judgment of Superintendent of Police, Swai

Madhopur Vs Commissioner of Central Excise, Jaipur [Manu/CE/0344/2019].

Para 4 & 5 are cited below:

4. The issue that has been raised in this appeal has been decided time and again by this Tribunal in favour of the appellant and against the department.

5. In this connection, reference can be made to one such decision that has been rendered in Superintendent of Police, Swai Madhopur vs Commissioner of Central Excise, Jaipur<sup>2</sup> and the relevant portion of the decision is reproduced below:

“15. The short point to be decided by us is if the Police provides guards to banks or other commercial concerns and charges a fee as per the rates determined by the Government whether service tax can be charged under “Security Agency Services” on such fee or otherwise. The lower authorities have held since the term “business concern” in the definition of “Security Agency Service” has been replaced with “any person” even the Police are covered under the “Security Agency Service”. A perusal of the definition of “Security Agency” shows that it has to be “any person engaged in the business of providing security”. Police provide security as a part of their statutory obligations. In most cases they do not charge any fee for such security but in some cases they charge a fee as determined by the State Government. Merely because they are charging a fee, Police do not become “person engaged in the business of providing security”. As per clarification issued by the CBEC Circular No. 89/07/2006-ST dated 18/12/2006 charges recovered by any sovereign or public authority for carrying out any statutory function will not be liable for service tax fees if three conditions are fulfilled.

16. The first condition is that the statutory authority must perform a duty which is in the nature of statutory or mandatory obligations to be fulfilled in accordance with law. We have no doubt that the police has a statutory duty to provide security. The Second condition is that the fee should be collected as per law. Section 46 of the Police Act provides for the State Government providing Police Force for fee for user charges in some cases. The present demand is on the amounts collected as user fee which are levied upon the Section 46 of the Police Act, and therefore, the second condition is also fulfilled. The third condition is that the amount so collected must be deposited into the Government treasury. There is no doubt in the entire proceedings that the amount so received was deposited in the Government treasury. In view of above, we find that all conditions required in the above circular of CBEC are fulfilled. Therefore, no service tax chargeable under Security Agency Services upon the Appellant. The CBEC circular being binding on the department, a demand to the contrary is not sustainable and needs to be set aside.

17. We also find that similar decisions is taken in case of Superintendent of Police, Udaipur vs. CCE (Supra), Deputy Commissioner of Police, Jodhpur (supra) and DIG of Police (supra). We concur with the aforesaid decisions and set aside the impugned order.” (emphasis supplied)

7. We also find that Co-ordinate Benches of this Tribunal in catena of judgments have taken similar views that merely because the Police may charge a fee, it would not become a person engaged in the business of providing security and therefore service tax can be charged under the

aforesaid category. In this regard, reliance is also placed on the judgment of Tribunal in the case of Commander Punjab Home Guards and Ors. Vs Commissioner of Central Excise and Service Tax, Ludhiana and Ors [MANU/CJ/0177/2024]. Para 4 of the order is relevant. Tribunal framed the question as to whether the State Police represented by Superintendent of Police would be covered within the definition of Security Agency Services and thereafter examined various circulars/instructions etc., and scope of definition of the service as well as modalities for providing such security to come to the conclusion that such services are statutory functions. Para 13 of the relied upon judgment by Chandigarh Bench, as quoted in Para 4 is relevant and is cited below:

4. Heard both sides and perused the records of the case. We find that the Principal Bench of the CESTAT had an occasion to go into the various aspects of the case and it was held that:

8. The question for decision is whether the State Police represented by the Superintendents of Police of various districts, would be covered within the definition of security agency services and service tax will be liable to be paid by them on the amounts recovered by them for providing security personnel to various organizations. Further, they were also sending police personnel for character verifications of candidates selected for various jobs and collecting charges but they neither got the registered with the Department nor did they pay service tax on such amounts recovered. As per Section 65(94) of the Finance Act, 1994, the definitions of "Security Agency" as well as "Security Agency Service" are given below for ready reference: -

"Security Agency" means any person engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel."

9. The other relevant circular issued by C.B.E. & C. is Circular No. 89/7/2006-S.T., dated 18-12-2006 is reproduced below: "The activities assigned to and performed by the sovereign/public authorities under the provisions of any law are statutory duties. The fee or amount collected as per the provisions of the relevant statute for performing such functions is in the nature of compulsory levy and are deposited in the Govt. Account. However, if a sovereign or public authority provides a service, which is not in the nature of

statutory activity and the same is undertaken for consideration (not a statutory fee), then in such cases service tax would be leviable as long as the activity undertaken falls within the scope of a taxable service as defined.”

10. The appellants have argued that the term “person” appearing in the definition must be construed to be a natural person as well as a juristic person and by no stretch of imagination, the same will include the State or its officers or the posts created under a statute. They cited the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of West Bengal v. Union of India [AIR 1963 SC 124] in which the Apex Court has held as under:-

“The definition is an enlargement of the natural meaning of the expression „person“, even the extended meaning does not include the State.”

Their submission is that Superintendent of Police is an authority of the State Govt. to carry out statutory and constitutional duties. The definition of the term “person”, (which does not cover the Govt.) in the General Clauses Act, 1897 is given as follows:-

“42. “Person” shall include any company or association or body of individuals, whether incorporated or not,”.

In the light of the definition of the term “person” in the General Clauses Act, 1897, which has also been examined and clarified by the Apex Court, it would appear that the Superintendent of Police, which is an agency of the State Govt. does not appear to be covered within the term “person”. It is also noteworthy that in the year 2012 when the pattern of levy of service tax was changed and the concept of negative list was introduced with effect from 1-7-2012, a definition was introduced for the term “person” in Section 65B(37), of the Act, which includes the Govt., local authorities, etc. From this, it is evident that such a definition for the term “person” has become part of the statute only from this date. To decide the meaning of “person” up to this date, we will have to refer to the General Clauses Act, 1897 as well as relevant case laws. The Apex Court has clearly held that the definition of “person” cannot be extended to include State. Consequently, we are of the view that the Superintendent of Police will not be covered within the term “person”.

11. The second leg of the argument advanced by the appellants is that they are not engaged in the business of rendering services relating to security. Their submission is that the occupation in business by a person is a condition precedent for a security agency. The lower authority has held that the term “business” does not signify any commercial activity for the purpose of gaining something out of the said activities, but the same has been used in terms of the work. He has accordingly held that as long as consideration is being received by police for providing security service, it is to be presumed to be in the nature of business.

The term “business” connotes that it is an activity undertaken with the intent of earning profit. The charges recovered by police are in the nature of cost recovery for the additional

police force deployed on request for maintaining security and law and order. It is also the submission of the police department that the deployment of additional police force at the request of banks and other institutions or other events has been done only for maintenance of law and in the absence thereof there could arise major security issues in relation to person or property. In the light of the submissions made, we are of the view that the activities undertaken by the police, for which charges have been recovered, cannot be held to be in the nature of business activity.

12. Now, we turn to the C.B.E. & C. Circular No. 89/7/2006-S.T., dated 18-12-2006. The circular has indicated under what conditions an activity performed by a sovereign/public authority should be categorized as one which is liable to payment of service tax. The circular clarifies that charges recovered by any sovereign/public authority for carrying out any statutory function will not be liable for levy of service tax if all the following conditions are satisfied :-

(a) Sovereign/public authorities perform duties which are in the nature of statutory and mandatory obligation to be fulfilled in accordance with the law.

(b) The fee collected should be levied as per the provision of relevant law.

(c) The amount collected is to be deposited into Government treasury.

The satisfaction of each of the above three conditions is analysed below :-

(i) A sovereign/public authority performs duties which are in the nature of statutory and mandatory obligation to be fulfilled in accordance with law.

The Superintendent of Police is an extended arm/instrumentality/ agency of the State Government and is controlled and managed by the State Government. It is carrying out the activities as entrusted to it vide the Police Act which are statutory and constitutional in nature. The appellant is required to discharge these statutory obligations for public security and maintenance of public peace and order. The appellant cannot carry out any activity beyond the legislative competence. The user charges are levied by the State Government for the deployment of Police Force for the maintenance of public peace, security and law and order as per Section 46 of the Police Act, Section 46 is reproduced below :-

“46. Payment for police service. - The State Government may levy from any person, who carries on any such occupation, gathering, exhibition, sale, entertainment, etc., for monetary gain, as may, for the purpose of public security or for the maintenance of public peace or order, require deployment of additional police force, such user charges as may be prescribed.”

(ii) The fee collected should be levied as per the provision of relevant law.

The State Government, in exercise of powers conferred under Section 46 of the Police Act issued two notifications wherein the charges to be recovered for providing additional police force for the purpose of maintaining public security and law and order have been notified. Notification number 27(2)Home/Gr.-6/84, dated 19-5-2008 which notifies the charges for police arrangement in Central Government offices/institutions/banks and other organizations, and notification number F.1(K)(16)Gr.-2/05, dated 15-1-2008 which notifies the charges to be recovered on providing/deploying/rendering police force for security purposes. In the notification number dated 19-5-2008, the charges fixed per day are as follows:

Constable	Rs. 250 per day
Head constable	Rs. 300 per day

With this it is wide and clear that the user charges are in the nature of amount collected as per the provision of the relevant law.

(iii) The amount collected is to be deposited into Government treasury.

As per the requirement of the General Finance Account Rules issued by the Rajasthan State Government, the Government dues are to be collected and paid into the Government treasury. The appellant, therefore, is required to collect the usage charges and credit the same in the Rajasthan State Government treasury.

The submission made by the police department in this regard is that the fees recovered by them is for provision of additional police force. They have referred to Section 46 of the Rajasthan Police Act, 2007 and submitted that the additional police officers are deployed at the request of any person only for the purpose of public security or for the maintenance of public peace or order. The fees levied and collected for this purpose is strictly as per the notification issued by the State Govt. under the above Section of the Act. The amounts so collected are mandatorily deposited into the Govt. treasury. Accordingly, they have submitted that all the conditions stipulated by the C.B.E. & C. circular are satisfied and consequently the activities are to be considered as statutory function and no service tax can be levied on such fees collected for discharging the sovereign function.

The lower authorities have, however, taken the view that the activity undertaken is not in the nature of statutory duty, but an activity undertaken for a consideration which is not a statutory fee. We find ourselves unable to agree to this stand taken by the lower authorities. The police department has the mandatory duty to maintain public peace and order. For such duty, which is in the nature of sovereign function, no charges are recoverable from the citizens. In the present case, the police department has recovered fees for deploying additional police personnel on request. However, the statutory functions of the police of the State Govt. make it explicit that such activity, even at request of the

other person, is to be carried out only for the purpose of public security or for the maintenance of public peace or order. The charge for deployment of such additional force is also prescribed by the statutory notification issued by the State Govt. In view of these facts, we are of the view that the activity of deploying police personnel on payment basis is to be considered as part of statutory function of the State Govt. and the fees recovered are to be considered as statutory. It is also not disputed that such amounts recovered have been deposited into the Govt. treasury.

13. On the basis of the above discussion, we conclude that police department, which is an agency of the State Govt., cannot be considered to be a "person" engaged in the business of running security services. Consequently, the activity undertaken by the police is not covered by the definition of Security Agency under Section 64(94) of the Act. We also find that in terms of C.B.E. & C.'s circular on this subject, the fees collected by the police department is in the nature of fee prescribed for performing statutory function, which has been deposited into the Govt. treasury. In the light of the C.B.E. & C.'s circular also, there can be no levy of service tax on such activities carried out by the police department.

8. Therefore, in view of aforesaid discussion and observation, we find that the impugned order cannot be sustained and appeal must be allowed and accordingly we set aside the impugned order.

9. Appeal allowed.

(Operative part of this order was pronounced  
in court on conclusion of the hearing)

**(A.K. JYOTISHI)**  
**MEMBER (TECHNICAL)**

**(ANGAD PRASAD)**  
**MEMBER (JUDICIAL)**