

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

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 893 of 2012(Arising out of **Order-in-Original** No. VIZ-STX-001-COM-013-12 dated 18.01.2012 passed by Commissioner of Central Excise, Customs & Service Tax, Visakhapatnam-I)**Sapphire Container Cargo**48-7-52, Sapphire Avenue,
Srinagar, Visakhapatnam,
Andhra Pradesh – 530 016.

..

APPELLANT*VERSUS***Commissioner of Central Excise
& Service Tax
Visakhapatnam– I**Port Area, Visakhapatnam,
Andhra Pradesh – 530 035.

..

RESPONDENT**AND****Service Tax Appeal No. 20843 of 2014**(Arising out of **Order-in-Appeal** No. 12/2014 (V-I)ST dated 06.02.2014 passed by Commissioner of Central Excise, Customs & Service Tax, Visakhapatnam)**Sapphire Container Cargo**48-7-52, Sapphire Avenue,
Srinagar, Visakhapatnam,
Andhra Pradesh – 530 016.

..

APPELLANT*VERSUS***Commissioner of Central Excise
& Service Tax
Visakhapatnam– I**Port Area, Visakhapatnam,
Andhra Pradesh – 530 035.

..

RESPONDENT**APPEARANCE:**

Shri N.V. Ramana Rao, Advocate for the Appellant.

Shri M. Anukathir Surya, 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/30324 & 30325/2026**

Date of Hearing: 26.02.2026

Date of Decision: 23.06.2026**[ORDER PER: ANGAD PRASAD]**

These two appeals have been filed by M/s Sapphire Container Cargo
(hereinafter referred to as appellant) against the orders confirming service

tax demand under the category of Cargo Handling Service. Since both the appeals involve common facts, common issue of classification and common legal submissions, they are being disposed by this common order.

2. The dispute in appeal no. ST/893/2012 relates to the period 2009-10, involving demand of Rs. 63,84,793/-, arising out of Order-in-Original No. VIZ-STX-001-COM-013-12 dated 18.01.2012. The dispute in appeal no. ST/20843/2014 relates to the period 2010-11, involving demand of Rs. 19,46,747/-, arising out of Order-in-Appeal No. 12/2014 dated 06.02.2014. The total demand involved in both the appeals is Rs. 83,31,510/-.

3. The fact, in brief, is that the appellant is engaged in activities connected with transportation of cargo through road-cum-rail mode. The case of the Department is that the appellant was not merely transporting goods, but was providing a composite service consisting of bringing empty containers, loading packed gunny bags of High Carbon Ferro Chrome, arranging containers and trailers, obtaining money receipts, obtaining inland way bills, coordinating with CONCOR / Boxtans and other agencies, monitoring movement of cargo, and ensuring delivery at the destination. According to the Department, the essential nature of the activity was Cargo Handling Service and not mere Goods Transport Agency service.

4. The appellant, on the other hand, contended that the dominant activity was transportation of goods and that any loading, unloading or allied activity was merely incidental to transportation. The appellant further relied upon the Tribunal's decision in their own case for the earlier period vide Final Order No. A/30566/2019 dated 01.10.2019, wherein, relief was granted to them.

5. We have heard both the sides and perused the records with their submissions.

6. The short question for consideration is whether the services provided by the appellant is classifiable as Cargo Handling Service under Section 65(23) read with Section 65(105)(zr) of the Finance Act, 1994 or as mere transportation/GTA service.

7. Section 65(23) of the Finance Act, 1994, as amended with effect from 16.05.2008 defines Cargo Handling Services as follows:

“(23) Cargo handling service means loading, unloading, packing or unpacking of cargo and includes,—

(a) cargo handling services provided for freight in special containers or for non containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service incidental to freight; and

(b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking,

but does not include, handling of export cargo or passenger baggage or mere transportation of goods;”

8. The definition is wide. It does not restrict cargo handling service only to cases where the assessee personally undertakes loading or unloading. If the assessee undertakes a composite contractual obligation and, for performance of such obligation, used their agencies for loading, unloading, container movement, freight arrangements and allied activities, the nature of the service must be determined from the totality of the contract and not merely from one isolated element.

9. The guiding principle in such cases is to identify the essential character of the transaction. The method of invoicing or the manner in which different

charges are described in the bill is not conclusive. A composite service has to be classified on the basis of the principal and essential nature of activity. In the present case, the record shows that the appellant's scope of work was not confined to simple carriage of goods by road. The appellant was required to bring empty containers, arrange loading of packed gunny bags, arrange movement through containers, obtain freight documents, coordante with CONCOR / Boxtans and trailer/truck operators, monitor dispatches and ensure delivery.

10. These activities clearly go beyond mere transportation. The appellant was providing an integrated cargo handling arrangement. Transportation was only one component of the entire service. The essential nature of the service was handling and movement of cargo in containers through different agencies and modes of transport. The appellant's own conduct is also relevant. It is not disputed that for certain period the appellant had discharged service tax under the category of Cargo Handling Service on marginal money. The conduct supports the Department's case that the appellant understood the essential nature of the service to be cargo handling and not mere GTA service.

11. The reliance placed by the appellant on the earlier Final Order No. A/30566/2019 dated 01.10.2019 does not advance it's case for the present period. Firstly, the present period is 2009-10 and 2010-11, whereas the earlier order related to previous periods. Secondly, Section 65(23) was substituted by the Finance Act, 2008 with effect from 16.05.2008, thereby expanding the scope of the definition. Thirdly, the Department has specifically submitted that the earlier order was not accepted on merits and appeal could not be preferred only because of the monetary limits prescribed

under the Litigation Policy. Therefore, the earlier order cannot be treated as conclusive or binding on the factual and legal position arising in the present appeals.

12. The Board Circular No. 104/07/2008-ST dated 06.08.2008 also supports the view that in composite transactions, the essential feature of the transaction has to be identified. The circular clarifies that transportation is not the essential character of cargo handling service, but may be incidental to cargo handling service. Only where a person registered as GTA, issues a consignment note for transportation of goods by road, in a goods carriage, and the amount charged is inclusive of packing, such service may be treated as GTA service. In the present case, the appellant was not merely acting as GTA. The appellant was registered for Business Auxiliary Service, Goods Transport Agency Service, Railway Containerised Freight Service and Cargo Handling Service, and the scope of work shows a much wider activity.

13. The decision in Gajanand Agarwal Vs Commissioner of Central Excise, BBSR [2008 (6) TMI 163-CESTAT-Kolkata] is relevant. In this case, it was held that where the object of the contract was loading of coal into railway wagons and the use of equipment was only a means to perform that obligation, the activity was classifiable as cargo handling service. The Kolkata Tribunal further held that the nomenclature of the agreement is not decisive and the substance of the activity must prevail. The same principle applies to the present case.

14. The Department has also relied upon the decision of this Tribunal in the case of M/s MBA and Company Vs Commissioner of Customs, Central Excise and Service Tax, Hyderabad – III [2018 (8) TMI 332 (CESTAT-Hyd)], wherein, the wider scope of cargo handling service was considered. The ratio

of these decisions supports the Department's contention that where loading, unloading, container handling and transportation are part of one composite arrangement, the service would fall under Cargo Handling Service unless it is a case of mere transportation of goods.

15. We are unable to accept the appellant's contention that because some activities were performed through independent contractors, the appellant cannot be treated as providing cargo handling service. The appellant entered into the contract with his recipient and undertook responsibility for the entire cargo movement and related handling operations. The fact that certain activities were outsourced does not change the nature of the service provided by the appellant to its client. We also reject the contention that bifurcation of charges in invoices as transportation, rail freight reimbursement, road freight, handling charges etc., would alter the classification. Classification depends on the essential nature of the composite service and not merely on the description of charges in the invoice. The activity as a whole has to be considered.

16. In view of the above discussion, we hold that the appellant was not providing mere transportation of goods. The appellant was providing a composite cargo handling service consisting of loading, arranging containers, coordinating with freight agencies, arranging road and rail movement, monitoring dispatches and ensuring delivery. The transportation element was only incidental or allied to the principal cargo handling activity. Consequently, the services provided by the appellant are rightly classifiable under Cargo Handling Service under Section 65(23) read with Section 65(105)(zr) of the Finance Act, 1994. The demands confirmed by the Lower Authorities are legally sustainable. On limitation and penalty also, we find

that the appellant had not correctly discharged service tax on the full taxable value and had excluded several elements such as observation/supervisory charges, transportation charges, discount amounts, CONCOR higher charges and handling charges received from service recipients. These amounts formed part of the gross value of taxable service. Therefore, the invocation of extended period and imposition of penalties are justified in the facts of the case.

17. In the result, both the appeals filed by the appellant are dismissed.

(Pronounced in the open court on 23.06.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)