

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 76188 of 2017**

(Arising out of Order-in-Original No. 148/COMMR/ST-II/KOL/2016-17 dated 28.03.2017 passed by the Commissioner of Service Tax-II, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**M/s. Ceva Freight India Private Limited** : **Appellant**  
[Formerly known as `M/s. SDV International Logistics Ltd.`]  
5<sup>th</sup> Floor, Kankaria Court, 7, Kyd Street,  
Kolkata – 700 016

**VERSUS**

**Commissioner of Service Tax-II** : **Respondent**  
Kendriya Utpad Shulk Bhawan,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**AND**

**Service Tax Appeal No. 76861 of 2017**

(Arising out of Order-in-Original No. 148/COMMR/ST-II/KOL/2016-17 dated 28.03.2017 passed by the Commissioner of Service Tax-II, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**Commissioner of C.G.S.T. and Central Excise** : **Appellant**  
Kolkata South Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**VERSUS**

**M/s. Ceva Freight India Private Limited** : **Respondent**  
[Formerly known as `M/s. SDV International Logistics Ltd.`]  
5<sup>th</sup> Floor, Kankaria Court, 7, Kyd Street,  
Kolkata – 700 016

**APPEARANCE:**

Shri Anup Sinha, Chartered Accountant, for the Assessee / Company

Shri Debapriya Sue, Authorized Representative, for the Revenue

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**  
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NOS. 77937-77938 / 2025**

DATE OF HEARING / DECISION: 16.12.2025

**ORDER: [PER SHRI K. ANPAZHAKAN]**

Service Tax Appeal No. 76188 of 2017 has been filed by M/s. Ceva Freight India Private Limited [Formerly known as 'M/s. SDV International Logistics Ltd.'], 5th Floor, Kankaria Court, 7, Kyd Street, Kolkata (hereinafter referred to as the appellant-company) against the Order-in-Original No. 148/COMMR/ST-II/KOL/2016-17 dated 28.03.2017 passed by the Commissioner of Service Tax-II, Kolkata.

1.1. Service Tax Appeal No. 76861 of 2017 has been filed by the Commissioner of C.G.S.T. and Central Excise, Kolkata South Commissionerate (hereinafter referred to as Revenue) against the same Order-in-Original No. 148/COMMR/ST-II/KOL/2016-17 dated 28.03.2017 passed by the Commissioner of Service Tax-II, Kolkata.

1.2. As both these appeals emanate from the same Order-in-Original, both are taken up together for decision by a common order.

2. The appellant-company is an international freight forwarder that renders freight forwarding service both for outbound cargo and inbound cargo. The appellant books cargo space on its own account with airline company/shipping line company for transportation of cargo from the port of loading in one country to the port of release in another country. It sells cargo space, already booked with airline company/shipping line company, on its own account to customer (consignor/consignee) at a profit. The difference between 'sell rate' and 'buy rate' gives rise to business profit of the company.

2.1. Apart from rendering freight forwarding service to customers as principal, the appellant-company also

renders Custom House Agent (hereinafter referred to as 'CHA') service at the customs stations in Indian ports, at the request of the customers. As a CHA, they get export consignments / import consignments cleared from the Customs Authority of India at the customs stations . The CHA service is supplementary to the main service of freight forwarding service rendered by the appellant.

2.2. The appellant-company received assignments of transportation of cargo from India to foreign country from overseas customers. They did not charge / pay service tax inter alia on freight and freight related charges and CHA charges on invoices raised by it on foreign affiliates considering the same as export of services. In respect of freight forwarding service and CHA service rendered to domestic customers, it duly paid service tax on additional amounts such as terminal handling charge, bill of lading fee, pick-up charge, palletisation charge, advance manifest system charge. handling fee, documentation fee, profit share, CHA charge etc.

2.3. A Show Cause Notice has been issued to the appellant-company alleging that they did not discharge their Service Tax liability to the tune of Rs. 1,02,69,148/ on a gross taxable value on certain taxable services provided by them during the period from July 2012 to March 2013 which was claimed by them to be either Income from Exports or Income from Exempted Services.

2.4. The said notice was adjudicated vide the impugned Order-in-Original, wherein the Id. adjudicating authority found that the main activities of the said appellant were related to freight forwarding as the company acted as shipping line/Air cargo

agents and booked spaces in different Shipping lines/Air lines to provide the service of transportation of goods by sea/air to their customers. A substantial portion of their income for the impugned period included receipts under Sea Freight and Air Freight charges and other freight related charges. The Id. adjudicating authority further found that the gross taxable value considered by the SCN also included the statutory dues paid by the said appellant-company on behalf of the service recipient. He observed that statutory levies namely Excise/Customs Duty/VAT etc., do not represent any consideration for rendering any service and have no nexus with the provision of service. However, the Id. adjudicating authority found that although the said appellant duly paid service tax on the charges for customs clearing activities pertaining to the domestic clients, they did not discharge service tax for such charges collected for services rendered to overseas customers claiming that those amounts were towards the export of services.

2.5. Accordingly, the Id. adjudicating authority confirmed the demand of Service Tax of Rs. 13,42,657/- in terms of Section 73(2) of Finance Act, along with applicable interest, in terms of Section 75 of the Act and dropped the remaining demand of Rs. 89,26,491/-; he imposed penalty of Rs. 1,34,266/- i.e., 10% of the total amount confirmed against the appellant-company, in terms of Section 76 of Finance Act and dropped the penal proposals under Sections 77 and 78 of the said Act.

2.6. Aggrieved by the confirmation of the demand of Service Tax, the assessee/company filed appeal. The Revenue has also filed appeal against the dropping of the said demand of Service Tax.

3. During the course of hearing, the appellant-company submitted that while rendering CHA services, they were engaged in processing of documents with respect to clearance of goods through customs station; the provision of CHA service is not a service in respect of which cargo is required to be made physically available by overseas customer (recipient of service) to the appellant-company (provider of CHA service), to enable the latter to provide the service. Rule 4(a) of the 'Place of Provision of Services Rules, 2012, in respect of goods that are required to be made physically available by the recipient of service to the provider of service, the place of provision of service shall be the location where services are actually performed. Thus, they contend that in respect of CHA service, where the goods are not required to be made physically available by the recipient of service to the provider of service, the place of provision of service is abroad; as CHA, they are merely engaged in processing of documents with respect to clearance of goods through customs station and as such Rule 4(a) of the Place of Provision of Services Rules, 2012' is not applicable to CHA service rendered by them to their foreign clients. Accordingly, it is the contention of the appellant-company that the demand of Service Tax confirmed under the head of CHA service in the impugned order is not sustainable and therefore liable to be dropped.

3.1. Regarding dropping of the demand in respect of freight forwarding service, the appellant-company submits that the Id. adjudicating authority has given a categorical finding in the impugned order before dropping the said demands. The appellant cited paragraph no. 5.4 of the impugned Order-in-Original (page 32 therein) wherein it is noted by the Id.

adjudicating authority that freight forwarding is independent and distinct activity for which the appellant company works on principal-to-principal basis; that it is not incidental to their CHA activity; Airline/shipping line does not directly deal with customer whose goods are being transported; the airline / shipping line enters into agreement with freight forwarder. The Id. adjudicating authority also notes that the appellant-company is given a quote for air / ship cargo transportation charges, i.e. tonnage / space rates on pallet basis by an airline / shipping line; such quotes are usually offered by airline / shipping line for bulk cargo on large quantity basis and this quote is referred to as the 'Buy rate'; that this contractual arrangement is therefore only between the airline / shipping line and the appellant company, that is, on principal-to-principal basis. The appellant-company also mentions that the Id. adjudicating authority has further taken note of the fact that the appellant-company quotes its customer (the ultimate shipper / consignor) a higher or lower rate for transportation of goods on such bulk cargo space purchased from airline/ shipping line based on commercial factors; the rate quoted by the appellant company to the consignor in this contract of carriage is called 'Sell rate' as per industry nomenclature; the contract with customer is also on principal-to-principal basis; the difference between the buy rate and sell rate is the appellant company's margin on trading in such cargo space; such amount is generated by trading in cargo space and by no stretch of imagination, it can be considered as a consideration for rendering 'Custom House Agent's Service'. They thus submit that the Ld. adjudicating authority, after reviewing the documents filed during the course of assessment proceedings especially the contract of

carriage issued by the airlines/ appellant-company and invoices issued by the airlines/appellant-company had taken a correct view in determining the freight forwarding activity to be the main activity of the appellant-company which is being carried on principal to principal basis and CHA activity to be the supplementary to the main activity of freight forwarding. Thus, the appellant-company argues that the Ld. Adjudicating authority has rightly dropped the demands raised on this count in the impugned order. Accordingly, they have prayed for rejecting the appeal filed by the Revenue.

4. Regarding the demands confirmed in the impugned order under CHA service, the Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order. Regarding Revenue's appeal, the Ld. Authorized Representative of the Revenue has reiterated the grounds raised by the Revenue in the Departmental Appeal.

5. Heard both sides and perused the records of the case.

6. Regarding the demand of service tax confirmed under the category of CHA service in the impugned order, we find that the appellant-company, namely, M/s. Ceva Freight India Ltd., paid service tax on the CHA service rendered to domestic customers, on the amounts received by them such as terminal handling charge, bill of lading fee, pick-up charge, palletisation charge, advance manifest system charge. handling fee, documentation fee, profit share, CHA charge etc. The demand confirmed under CHA service in the impugned order pertains to the CHA service rendered to foreign customers, which the appellant-company considered as 'export of service' and hence there is no

liability to pay service tax on such services. In this regard, it is pertinent to note that the CHA service rendered by the appellant is supplementary to the main service of freight forwarding service rendered by the appellant. The company received assignments of transportation of cargo from India to foreign country from overseas customers. We find that the appellant-company did not charge / pay Service Tax on the freight and freight related charges and CHA charges on invoices raised by it on foreign affiliates considering the same as export of services. In respect of CHA service, where the goods are not required to be made physically available by the recipient of service to the provider of service, we observe that the place of provision of service is abroad. As CHA, they are merely engaged in processing of documents with respect to clearance of goods through customs station and as such we hold that the provisions of Rule 4(a) of the Place of Provision of Services Rules, 2012 are not applicable to the CHA service rendered by the appellant-company to their foreign clients. Thus, we find that the said service rendered by the appellant-company to the overseas customers falls within the ambit of 'export of services' and consequently, no service tax is payable on such services received abroad. Accordingly, we hold that the demand of Service Tax confirmed under the category of CHA service in the impugned order is not sustainable and therefore, we set aside the same.

6.1. Since, the demand of Service Tax against the appellant-company is not sustained, the question of demanding interest or imposing penalty on them does not arise.

7. Regarding Revenue's appeal against dropping of the demand in respect of freight forwarding service, it is relevant to note that the appellant-company is an international freight forwarder which renders freight forwarding service both for outbound cargo and inbound cargo. The said appellant books cargo space on its own account with airline company/shipping line company for transportation of cargo from the port of loading in one country to the port of release in another country. It sells cargo space, already booked with airline company/shipping line company, on its own account to customer (consignor/consignee) at a profit. The difference between 'sell rate' and 'buy rate' gives rise to business profit of the company. Apart from rendering freight forwarding service to customers as principal, the appellant-company also renders Custom House Agent (CHA) service at the customs stations in Indian ports, at the request of the customers. As a CHA, the appellant-company gets export consignments / import consignments cleared from the Customs Authority of India at the customs stations. As a matter of fact, the CHA service is supplementary to the main service of freight forwarding service rendered by the company. In the Notice, demand has also been raised for this amount under the category of 'CHA service'. We find that the Id. adjudicating authority has given a categorical finding in the impugned order while dropping the said demands. In paragraph no. 5.4 at page 32 of the impugned order, the Id. adjudicating authority has categorically observes that freight forwarding is independent and distinct activity for which the appellant company works on principal-to-principal basis and it is not incidental to their CHA activity. He also notes that Airline/shipping line does not directly deal with customer whose goods are being

transported; the airline / shipping line enters into agreement with freight forwarder and the appellant company is given a quote for air / ship cargo transportation charges, i.e. tonnage / space rates on pallet basis by an airline / shipping line. Moreover, the Id. adjudicating authority has taken note of the fact that such quotes are usually offered by airline / shipping line for bulk cargo on large quantity basis and that this quote is referred to as the 'Buy rate'; that this contractual arrangement is therefore only between the airline / shipping line and the appellant-company, that is, on principal-to-principal basis. It has also been noted by the Id. adjudicating authority therein that the difference between the buy rate and sell rate is the appellant company's margin on trading in such cargo space; such amount is generated by trading in cargo space and by no stretch of imagination, it can be considered as a consideration for rendering 'Custom House Agent's Service'. We agree with the above categorical findings given by the Ld. adjudicating authority and do not find any reason to differ on the said findings. We also find that the Ld. adjudicating authority has reviewed the documents filed by the appellant-company during the course of assessment proceedings, especially the contract of carriage issued by the airlines / appellant-company and invoices issued by the airlines / appellant-company, for concluding the freight forwarding activity to be the main activity of the appellant-company which is being carried on principal to principal basis and CHA activity to be the supplementary to the main activity of freight forwarding. Thus, we do not find any infirmity in dropping of the said demand by the Ld. adjudicating authority in the impugned order. Accordingly, we reject the appeal filed by the Revenue.

8. In view of the above findings, we set aside the demands of Service Tax, along with interest and penalty thereon, as confirmed in the impugned order under the category of 'CHA service' and allow the appeal filed by the appellant-company. The appeal filed by the Revenue is rejected.

(Operative part of the order was pronounced in open court)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

Sdd