

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

REGIONAL BENCH – COURT NO. 1

**Service Tax Miscellaneous Application (EH) No.
76333 of 2025**

in

Service Tax Appeal No. 76385 of 2025

(Arising out of Order-in-Appeal No.625/GHY(A)/COM/STP/DIB/2024 dated 18.12.2024 passed by Commissioner of CGST, Central Excise and Customs, Guwahati)

Assam Gas Company Ltd.

Duliajan, District.Dibrugarh, Assam-786 602.

: Appellant

VERSUS

**Commissioner of Central Goods & Service Tax,
Dibrugarh**

C.R.Building Dibrugarh, Assam-786003.

: Respondent

With

**Service Tax Miscellaneous Application (EH) No.
76332 of 2025**

in

Service Tax Appeal No. 76616 of 2025

(Arising out of Order-in-Appeal No.623/GHY(A)/COM/STP/DIB/2024 dated 18.12.2024 passed by Commissioner of CGST, Central Excise and Customs, Guwahati)

Assam Gas Company Ltd.

Duliajan, District-Dibrugarh, Assam-786 602.

: Appellant

VERSUS

**Commissioner of Central Goods & Service Tax,
Dibrugarh**

C.R.Building Dibrugarh, Assam-786003.

: Respondent

APPEARANCE:

Shri Tarun Chatterjee & Shri Raju Mondal, Advocates for the Appellant

Shri D.Sue, Advocate for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77952-77953/ 2025

DATE OF HEARING :17.12.2025

Order : [Per Shri Ashok Jindal]

Both the appeals are having a common issue
therefore, both are disposed by a common order.

2. The facts of the case are that appellant is engaged in a business of transmission of natural gas through pipeline network and sale of gas, the appellant is not engaged in the business of supply of 'manpower' to any other person for any valuable consideration which is subject to levy of Service Tax.

3. The appellant has a joint venture (DNP) with Num Aligarh Refinery Ltd. (NRL), having 26% share, Oil India Limited (OI), having 23% share and the appellant 51% share, as a lead JV partner, the technical and non-technical personnel is engaged in execution of the project. In terms of the JV Agreement and the decision of the JV partners, the cost of such personnel is reimbursed to the appellant on actual basis.

4. The appellant submits that reimbursable expenses i.e. cost of the personnel engaged in execution of the project in which the appellant is a lead JV partner is not 'consideration' under Section 67 of the Finance Act, 1994 for provision of any service, therefore, demand of Service Tax on reimbursement is not sustainable.

5. The personnel engaged are the employees of the appellant and the appellant is paying all salaries etc. to such employees, only cost of such employees are reimbursed by the JV, the whole arrangement between the appellant and the JV does not fall under the taxable service of manpower supply service as defined under rule 2(g) of the Service Tax Rules.

6. Two Show Cause Notices dated 10.08.2017 for a period of April, 2015 to March, 2016 and dated 31.01.2019 for a period of April, 2017 to June, 2017 to demand Service Tax under Manpower Service Agency Services for the amount received by the

appellants from their Joint Venture Parties for engaging their personnel to this project.

7. The matter was adjudicated. Demand of Service Tax was confirmed. Against the said order appellants are before us.

8. The Ld. Counsel for the appellant submits that in their own case issue has already been settled by this Tribunal vide Final Order No. 75472/2025 dated 25.02.2025. Therefore, issue is no more res-integra. Accordingly, impugned orders are to be set aside.

9. We have find that in appellant's own case this Tribunal has observed as under:

"6. We observe that the issue to be decided in the present appeal is whether Service Tax is payable on reimbursable expenses received by the appellant from the JV partner, considering such reimbursement as 'consideration' for providing service under the category Manpower Supply Agency Service'?"

6.1. We observe that the appellant has a joint venture (DNP) with Num Aligarh Refinery Ltd. (NRL), having 26% share Oil India Limited(OIL), having 23% share and the appellant 51% share. As a lead JV partner, the technical and non-technical personnel of the appellant is engaged In execution of the project. In terms of the JV Agreement and the decision of the JV partners, the cost of such personnel is reimbursed to the appellant on actual basis. As the appellant is the Lead Partner with 51% share, we observe that in this case the service rendered by the appellant is not for any other company but to themselves. Thus, there is no service provider and service receiver relationship exists in the transaction. We observe that the

personnel engaged are the employees of the appellant company and the appellant is paying all salaries etc. to such employees. Only cost of salary of such employees are reimbursed by the JV on actual basis. Thus, we observe that the whole arrangement between the appellant and the JV does not fall under the taxable service of manpower supply service as defined under rule 2(g) of the Service Tax Rules. Accordingly, we hold that the reimbursements received by the appellant cannot be considered as 'consideration' towards any taxable service.

6.2. We find that the instant case is squarely covered by the decision of the Hon'ble Apex Court In COMMISSIONER OF CGST, DELHI SOUTH Versus BOEING INDIA DEFENSE PVT. LTD., 2024 (388) E.L.T. 37 (S.C.). For ready reference, the portion of the said decision is reproduced below:

2. Learned Counsel appearing for the appellant very fairly submitted that the issues which arise in these appeals are covered by the judgment of this Court in Union of India & Anr. v. Intercontinental Consultants and Technocrats Private Limited (2018) 4 SCC 669 = 2018 (10) G.S.T.L. 401 (S.C.) = [2018] 91 taxmann.com 67/66 GST 450 (SC) and, therefore, an appropriate order may be passed In these appeals. 3. In the circumstances, the Civil Appeals are dismissed.

6.3. We also rely upon the decision of the Hon'ble apex Court in the case of Union of India & Anr. v. Intercontinental Consultants and Technocrats Private

Limited (2018) 4 SCC 669 2018 (10) G.S.T.L. 401 (S.C.) = [2018] 91 taxmann.com 67/66 GST 450 (SC) and contended that that such reimbursable amount is not consideration under Section 67 of the Act, furthermore, if at all such reimbursement is taxable, the same is taxable from 14-05-2015 whereas the Impugned period is April 2009 to March, 2014. The relevant part of the said decision is reproduced below:

29. In the present case, the aforesaid view gets strengthened from the manner in which the Legislature itself acted. Realising that Section 67, dealing with valuation of taxable services, does not include reimbursable expenses for providing such service, the Legislature amended by Finance Act, 2015 with effect from May 14, 2015, whereby Clause (a) which deals with 'consideration' is suitably amended to include reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service. Thus, only with effect from May 14, 2015, by virtue of provisions of Section 67 Itself, such reimbursable expenditure or cost would also form part of valuation of taxable services for charging service tax. Though, It was not argued by the Learned Counsel for the Department that Section 67 is a declaratory provision, nor could it be argued so, as we find that this is a substantive change brought about with the amendment to Section 67 and, therefore, has to be prospective in nature.

6.4. We observe that the Ld. A.R relied upon the decision of the Hon'ble Apex Court In the case of Northern Operating Systems Pvt. Ltd. vs C.C., C.E. &

S.T., Bangalore (Adjudication) 2022(61) G.S.T.L. 129(S.C.). We observe that the facts and circumstances of the present case on hand is different from the facts and circumstances of the case of Northern Operating Systems Pvt. Ltd. In that case the appellant has been sending the manpower to their subsidiary companies abroad and service tax was demanded on the consideration received under the category of 'import of service', where as in the present case the appellant as a Lead JV partner was sending their technical and non-technical personnel of the appellant is engaged in execution of the project. In terms of the JV Agreement and the decision of the JV partners, the cost of such personnel is reimbursed to the appellant on actual basis. Thus, we observe that the facts are distinguishable and case the case law relied upon by the Ld. A.R. Is not applicable to this case."

10. As issue has already been decided in favour of their appellant in their own case for the earlier period we do not find any merit in their impugned order. Accordingly the same are set aside. In result appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)