

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT No. I**

APPEAL Nos. ST/89852-89853/2014

(Arising out of Order-in-Appeal No. PD/80-81/LTU/MUM/2014 dated 22.8.2014 passed by Commissioner of Central Excise & Service Tax (Appeals), LTU, Mumbai)

Tata Consultancy Services Ltd.

Appellant

Vs.

Commissioner of C.Excise & ST (LTU), Mumbai Respondent

Appearance:

Shri S.B. Gabbawala, C.A., for appellant

Shri V.R. Reddy, Assistant Commissioner (AR), for respondent

CORAM:

Hon'ble Mr. Ramesh Nair, Member (Judicial)

Hon'ble Mr. Sanjiv Srivastava, Member (Technical)

Date of Hearing: 8.5.2018

Date of Decision: 6.8.2018

ORDER No. A/**87040-87041/2018**

Per: Sanjiv Srivastava

1.0 The Appeals under consideration are directed against the order in appeal No PD/80-81/LTU/MJM/2014 dated 22.08.2014 issued on 25.08.2014, upholding the order in original -

- i. No 13/LTU/MUM/ST/GLT-S/ANK/2013-14 dated 30.08.2013 issued on 13.09.2013, confirming the demand of Rs 88,074 for the period April 2008 to

March 2009 issued vide Show Cause Notice dated 26.10.2009;

- ii. No 11/LTU/MUM/ST/GLT-S/ANK/2013-14 dated 30.08.2013 issued on 13.09.2013, confirming the demand of Rs 18,256 for the period April 2009 to March 2010 issued vide Show Cause Notice dated 26.11.2010;

2.1 Tata Group with M/s Unisys Corporation, USA incorporated a joint venture company Tata Unisys Limited (TUL). TUL entered into agreement with Unisys Corporation in 1996 and was granted license to use the technical information, knowhow and system software relating to the manufacture of Document Processing System. In terms of the said agreement-

- i. 'Knowhow' meant trade secrets and other information and knowledge applicable to development, manufacture, assembly, testing, repair and refurbishment of the products and known by Unisys Corporation;
- ii. Clause 4 provided that Unisys and TUL were to develop a plan to enable TUL to start manufacturing of the products not later than 1st January 1997. TUL commenced the manufacturing operations in 1996;

iii. Article 8 provided that TUL shall pay a license fee/ royalty on ongoing basis to Unisys on sale of products to all parties other than Unisys at the fixed percentage of sale

2.2 TUL was renamed as Tata Infotech Limited in February 1997 and later it merged with the appellant.

2.3 Agreement was amended in 2005. In terms of the amended agreement appellant was required to pay royalty on all products.

2.4 The show cause notices have been issued to the Appellant proposing to levy service tax under the category of "Intellectual Property Right Service" on the royalty paid by them to M/s Unisys Corporation, USA.

2.5 The said Show Cause Notices have been adjudicated confirming the demand raised in the show cause notice. Commissioner (Appeal) has upheld the orders confirming the said demands and hence these appeals.

3.0 Have heard Shri S B Gabbawala, C A for the Appellant and Shri V R Reddy, Assistant Commissioner (Authorized Representative) for the Revenue.

3.1 Arguing for the Appellants learned C A submitted that the issue involved in the matter is no longer res-

integra. It has been decided in the favour assessee in a series of decisions including their own case for the past period.

- i. Chambal Fertilizers & Chemicals Ltd. Vs Commissioner C Ex Jaipur I [2016 (45) STR 118 (T)];
- ii. Rochem Separation Systems (India) P Ltd. Vs Commissioner Service Tax Mumbai I [2015 (39) STR 112 (T-Mum)];
- iii. Munjal Showa Ltd Vs Commissioner of Central Excise and Service Tax Delhi (Gurgaon) 2017 (5) GSTL (T-CHD)];
- iv. Catapro Technologies Vs Commissioner Central Excise Nashik [2017 (48) STR 94 (T-MUM)];
- v. Tata Consultancy Services Ltd. Vs Commissioner Of Service Tax Mumbai [2016 (41) STR 121 (T-MUM)].

3.2 Arguing for the revenue Authorized Representative reiterated the order.

4.1 From the facts as placed before us there is no dispute that in the case of Appellants itself the matter has been considered by this tribunal in the decision reported at 2016 (41) STR 121 (Tri-Mumbai) for the past period, in respect of show cause notice issued to them dated 7.01.2009. Since the issue is squarely covered by

the said decision and nothing further has been put forth in these cases we respectfully follow the said decision.

4.2 In result, order in appeal passed by Commissioner (Appeal) is set aside and appeals allowed.

(Pronounced in court on 6.8.2018)

(Ramesh Nair)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

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