

CESTAT RULING (SERVICE TAX)

[2013-TIOL-1161-CESTAT-DEL](#)

M/s British Airways Vs CCE (Dated: July 19, 2013)

Service Tax - Service received by a foreign Head office of a company having branch in India, from service providers abroad. Is the branch in India liable to pay Service Tax? Matter referred to Third Member.

[2013-TIOL-1160-CESTAT-AHM](#)

M/s Rikin Industries Vs CST (Dated: June 17, 2013)

ST - Penalty - Bonafide belief - Legislation is operative proprio vigore on its enactment and effectuation - the operation of legislation is not contingent upon affirmation by the judicial branch, even where a challenge to its constitutionality is presented before the Courts - No person therefore, could reasonably harbour any manner of doubt that when legislation is under challenge, the challenged legislation is in eclipse to be upheld - s. 73(3) of FA, 1994 cannot be invoked to not impose penalty - O-in-A is impeccable and warrants no interference - Appeal rejected: CESTAT [para 5]

[Also see analysis of the Order](#)

[2013-TIOL-1155-CESTAT-DEL](#)

Shri Krishan Kumar Vs CCE (Dated: May 28, 2013)

ST - BAS - since appellants are providing various services to IBP Company/IOCL and are covered under Clause (i), (iii) & (iv) of the definition of Business Auxiliary Service apart from being Commission Agent, benefit of Notification 13/2003-ST has rightly been denied to them: CESTAT [para 6]

As per Section 67 of the Act value of any taxable service shall be gross amount charged by the service provider for such service provided or to be provided - It does not provide for any deduction from the gross value for providing the service - in view of the same, contention of the appellants that no service tax is payable on reimbursable expenses borne by them is rejected: CESTAT [para 5]

Delhi High Court in case of Intercontinental Consultants & Technocrats Pvt. Ltd. - [\(2012-TIOL-966-HC-DEL-ST\)](#) was examining the vires of Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006 - in the present appeals period involved is prior to 2006 and as such ratio of the decision is not applicable: CESTAT [para 8]

Limitation - figures for various charges received by appellant was obtained by Department from I.B.P/IOC and not by the appellant - plea of limitation was also not taken before lower authorities - appellant did not file any return or pay any tax - extended period rightly invoked - penalty also imposable: CESTAT [para 7]

[Also see analysis of the Order](#)

[2013-TIOL-1154-CESTAT-DEL](#)

M/s Mahindra World City Ltd Vs CCE (Dated: May 31, 2013)

Service Tax - Refund - Service Tax paid by SEZ unit on services received in relation to authorized operations in SEZ - Refund claimed by claiming exemption under Notification No 4/2004 ST - Refund claim rejected on the ground of limitation, unjust enrichment and on the ground that the services were consumed outside SEZ - No error in the order of Commissioner (Appeals) rejecting the appeal.

[2013-TIOL-1150-CESTAT-MUM](#)

Actor Prepares Vs CST (Dated: May 17, 2013)

ST – Definition of 'Vocational Training Institute' in Notfn. 3/2010-ST dated 27/02/2010 cannot be applied retrospectively - It is impermissible for an authority conferred with the power to enforce provisions of the Act to interpret the Act or exemption Notifications issued thereunder by resorting to assumptions impermissible in law - Adjudication order is fallacious, misconceived and unsustainable, hence quashed – Appeal allowed: CESTAT [paras 3, 4, 5 & 6]

[Also see analysis of the Order](#)

[2013-TIOL-1149-CESTAT-MUM](#)

Omega Associates Vs CST (Dated: June 3, 2013)

ST - Appellant engaged in construction of residential flats - before handing over possession of such flats appellant collecting development and maintenance fees from flat buyers as the promoter is liable to discharge payments towards outgoing expenses which include municipal local taxes, property tax, water charges, electricity charges, revenue assessment or any mandatory charges under s. 5 of Maharashtra Ownership Flat (Regulation) Act, 1963 - appellant has undertaken these activities merely in the capacity of an executor and has not rendered any service of 'management, maintenance or repair services' - strong prima facie case in favour - unconditional waiver granted from pre-deposit of adjudged dues and recovery stayed: CESTAT [paras 3.1 & 5]

[2013-TIOL-1144-CESTAT-DEL](#)

Deputy Conservator Of Forest & Deputy Field Director (Core) Vs CCE (Dated: February 1, 2013)

ST - Applicants are arranging tour of Ranthambore sanctuary by various types of vehicles and collecting certain amounts per person - since they are engaged in the business of planning, scheduling, organizing or arranging tours, therefore, prima facie, they are liable to pay Service Tax under the category of "Tour operator service" - Pre-deposit ordered: CESTAT [para 7]

[Also see analysis of the Order](#)

[2013-TIOL-1143-CESTAT-MAD](#)

M/s Peninsula Designs (P) Ltd Vs CST (Dated: March 14, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Commercial or Industrial Construction service - Thermal and acoustic insulation - Denial of benefit of 67% abatement under Notification No 1/2006 ST on the ground that it is finishing service - Prima facie case for waiver of pre-deposit in view of the earlier stay order by the CESTAT in similar case - Pre-deposit waived.

[2013-TIOL-1138-CESTAT-MUM](#)

Larsen & Toubro Ltd Vs CST (Dated: July 2, 2013)

Service Tax - Can a works contract be vivisected prior to 01/06/2007 and subjected to levy of service tax under "erection, installation and commissioning service":

Member (T): Correct position of law as it prevails today is that a composite works contract can be vivisected and the discernible service element can be subjected to levy of service tax if the law provides for the same.

When a composite contract can be vivisected for the purpose of levy of service tax as held by the hon'ble Apex Court in the BSNL case and the larger Bench of this Tribunal in the BSBK case, even if such service was rendered as part of a works contract prior to 01.06.2007, the same would be leviable to service tax under 65(105)(zzd) prior to 01.06.2007.

Member (J): any levy of service tax on works contract prior to introduction of section 65(105)(zzzza) is also impermissible as the section has been given only prospective effect by the legislature. The activity of 'erection, commissioning and installation' can be taxable in case of pure labour contracts or where the value of goods involved is negligible say less than 20%. Levy of service tax on works-contract or lump-sum turnkey contract under the provisions of section 65(39a) prior to 01.06.2007 is impermissible as no valid charge have been created.

[Also see analysisof the Order](#)

[2013-TIOL-1137-CESTAT-MUM](#)

M/s Federal Express Corporation Vs CST (Dated: February 27, 2013)

ST - Information and tracking of delivery schedule, managing distribution & logistics, received from outside India is correctly classifiable under the category of "Management Consultancy Services" & not "Business Support Services" as alleged by Revenue - Appellant rightly entitled to avail 100% CENVAT Credit - appeal allowed: CESTAT [paras 5.1 & 5.2]

[Also see analysisof the Order](#)

[2013-TIOL-1136-CESTAT-MUM](#)

Amit Nagindas Vora Vs CST (Dated: July 3, 2013)

ST - Appellant is only a matriculate and does not hold any professional degree in Engineering, recognized by law - Therefore, the appellant does not qualify as a "Consulting Engineer" as defined in law - Secondly, the appellant was a patentee and transferred the right to use the patent to his client for consideration of royalty payment - The said service merits classification under "Intellectual Property Service"

which came into tax net with effect from 10/09/2004 - Since the period in dispute is much prior to that, there is no service tax taxability with respect to the services rendered by him – order set aside and appeal allowed: CESTAT [paras 6 & 7]

[2013-TIOL-1130-CESTAT-MAD](#)

M/s Mahindra Holiday And Resorts India Ltd Vs CCE & ST (Dated: February 28, 2013)

Service Tax - CENVAT Credit - Appellant contend that they were not provided the worksheet based on which the demand was confirmed - In the Show Cause Notice, there was no indication of any worksheet being annexed to it - Matter remanded to the original authority for fresh adjudication after supplying the worksheet to the appellant - Demand confirmed to the extent of admitted liability of Rs 8,69,567/-.

[2013-TIOL-1129-CESTAT-MUM](#)

Samarth Sevabhavi Trust Vs CCE (Dated: May 24, 2013)

ST - "manpower supply services" - From the agreement with the sugar factory, it is seen that the same is for cutting and transportation of sugarcane from the farmer's fields to the sugar factory, who have agreed to sell their sugarcane to the sugar factory - agreement is not for supply of any labour - rates agreed upon for the said work are per tonnage of sugarcane supply, both for harvesting as well as transportation - this would clearly indicate that the activity undertaken cannot, by any stretch of imagination, be called supply of manpower - the agreement entered into between the Trust and the transporters is for the transporter to engage labour for harvesting and transporting the sugarcane to the sugar factory and the rates agreed to be paid are on tonnage basis of the sugarcane supplied and not for the supply of any manpower - it is obvious that no manpower has been supplied by the appellant to the sugar factory to constitute supply of manpower - Order set aside and appeal allowed: CESTAT [para 6]

Merely because in the statements, the deponents therein, based on their understanding agreed that the services come under the manpower supply, the same cannot be the basis for demand of service tax - demand has to be made in accordance with law, taking into account the contracts entered into by the appellant with the various parties involved in the transaction - demands cannot be confirmed on the basis of a wrong understanding entertained by the appellant or anybody else: CESTAT [para 6]

[Also see analysis of the Order](#)

[2013-TIOL-1128-CESTAT-AHM](#)

M/s Essar Steel India Ltd Vs CCE & ST (Dated: July 2, 2013)

CENVAT on services of 'Construction and Maintenance of township' - argument that the residential complex is within factory needs to be considered – same was not put before High Court of Gujarat or Bombay for deeper consideration - when there are different views on the very same issue, there is a convention that stay on pre-deposits needs to be granted if facts are akin – as the appellant has paid Rs.2.80 crores which works out to 25% of confirmed demand and has pleaded financial hardship, same is to be considered enough for hearing the appeal - stay granted: CESTAT [paras 7 & 9]

Argument that the indirect cost of the employees includes the cost of maintenance and construction of the residential complex within the factory premises and discharge of duty liability thereof is an issue which was not put forth before any judicial forum and was not decided - argument needs deeper consideration: CESTAT [para 8]

[2013-TIOL-1127-CESTAT-MAD](#)

M/s Associated Clearing And Forwarding Agency Vs CST (Dated: February 12, 2013)

Service Tax – Stay /Dispensation of Pre -deposit – Custom House Agent Service – Valuation - Reimbursable expenses - The applicant failed to co -relate expenses and the receipts - It appears that the extra amount received by them was shown as 'profit' in the Profit and Loss Account and there is a factual dispute on the issue of reimbursable expenses – Pre-deposit of Rs 10 lakhs ordered.

[2013-TIOL-1119-CESTAT-MAD](#)

M/s Elgi Equipments Ltd Vs CCE (Dated: March 15, 2013)

Service Tax - Renting of immovable property service - Rents received from Government department - Service Tax erroneously paid claimed as refund - Refund rejected on the ground of time bar - No error in the order rejecting the claim as time barred.

[2013-TIOL-1118-CESTAT-MAD](#)

M/s Bharat Sanchar Nigam Ltd Vs CCE (ST) (Dated: March 15, 2013)

Service Tax - Penalty - CENVAT credit on maintenance of garden and printing of stationary reversed before issue of Show Cause Notice - Penalty under Section 78 is set aside.

[2013-TIOL-1117-CESTAT-DEL](#)

M/s Thai Airways International Public Company Ltd Vs Commissioner (Adjn), Central Excise (Dated: June 27, 2013)

Service Tax - Service received by a foreign Head office of a company having branch in India, from service providers abroad. Is the branch in India liable to pay Service Tax? Matter referred to Third Member.

[Also see analysisof the Order](#)

[2013-TIOL-1116-CESTAT-DEL](#)

M/s Austrian Airways Vs Commissioner (Adjn), Central Excise (Dated: June 27, 2013)

Service Tax – Service received by a foreign Head office of a company having branch in India, from service providers abroad. Is the branch in India liable to pay Service Tax? Matter referred to Third Member.

[Also see analysisof the Order](#)

[2013-TIOL-1115-CESTAT-MAD](#)

M/s Aqua Base Container Services Vs CST (Dated: April 3, 2013)

Service Tax – Stay/Dispensation of pre-deposit – Management, Maintenance or Repair service – Non-inclusion of value of material used – Since the conflicting views were resolved only by Larger Bench, prima facie, extended period cannot be invoked – Appellant is directed to pre -deposit Rs 30,00,000/- .

[2013-TIOL-1110-CESTAT-DEL](#)

M/s Rajasthan State Beverages Corpn Ltd Vs CCE (Dated: May 29, 2013)

Service Tax – Distribution of IMFL and Beer – taxable under BAS – Earlier decisions of Tribunal not relevant in this case: the conclusion that the ownership/property in liquor continues with the distilleries and has not passed to the appellant, is inescapable and compelling. On analysis of the several clauses of the agreement, it is clear that the appellant was never the owner of the liquor nor had title in the liquor supplied to it. It was merely acting as the consignee of the goods belonging to the supplier/distilleries. Within the framework of the agreements, considered in the context of the taxable BAS, as defined in Sections 65 (19) read with 65(105) (zzb) of the Act, the conclusion is uncontestable that the appellant was rendering the taxable BAS since the appellant was clearly marketing and providing services in relation to sale of goods (IMFL , Beer etc.) produced / belonging to the distilleries.

Limitation : there could be no cause for any doubt or a bonafide belief that the appellant was rendering the taxable BAS to manufacturers of liquor by providing a service in relation to the sale of goods (liquor) produced by such distilleries/ manufacturers. Despite the clear obligation enjoined by unambiguous provisions of the Act, the appellant neither obtained registration as a taxable service provider; nor filed periodical returns nor remitted service tax as mandated by the provisions of the Act. The tax evasion by the appellant came to notice of Revenue only when Intelligence Officers of the Anti Evasion Wing came upon information of the activities of the appellant. In these and the totality of circumstances, the conclusion by Revenue that there was wilful suppression of relevant material with a view to evade liability to tax, cannot be faulted nor considered inconsistent with the statutory prescriptions that justify invocation of the extended period of limitation. Invocation of the extended period of limitation and the consequent assessment of the appellant to service tax, is impeccable.

[Also see analysisof the Order](#)

[2013-TIOL-1109-CESTAT-MAD](#)

Lakshmi Electrical Works Vs CCE (Dated: February 26, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Demand of service tax under Erection, Commissioning or Installation service in respect of contracts for the period prior to 01.06.2007 - Pre-deposit of Rs 2 lakhs ordered.

[2013-TIOL-1108-CESTAT-MAD](#)

M/s Get Power (P) Ltd Vs CST (Dated: February 26, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Erection, Commissioning or Installation service - Demand of service tax from the sub-contractor in respect of services rendered to the main contractor - The audit report relates to the year 2006 and the show-cause notice is issued after two years in 2008 - Prima facie, demand is barred by limitation - Pre-deposit waived.

[2013-TIOL-1104-CESTAT-MUM](#)

M/s Pratibha Constructions Engineers & Contractors (I) Pvt Ltd Vs CCE (Dated: June 24, 2013)

ST - s. 86 of FA, 1994 - Service Tax liability paid along with interest - Since penalty under contest is only Rs.28.44 lakhs, matter to be placed before Single Member Bench: CESTAT [para 2]

[2013-TIOL-1103-CESTAT-DEL-LB](#)

M/s Glyph International Ltd Vs CCE & ST (Dated: July 2, 2013)

Appeal to CESTAT on rejection of Refunds – What is the fee payable?

[2013-TIOL-1102-CESTAT-MUM](#)

Ane Industries Pvt Ltd Vs CC & CCE (Dated: May 27, 2013)

ST - Overburden removal, removal of waste cannot be considered as 'cargo' and service cannot be classified under 'Cargo Handling Service': CESTAT [para 5.1]

CENVAT - Excise duty on the Tippers had been discharged under Chapter 87 by the manufacturer of the vehicles and if that be so, the appellant cannot claim and seek to change the classification from Chapter 87 to Chapter 84 and justify availment of CENVAT credit - reliance placed on decision in Dipco Metal Fabricators Pvt. Ltd. ([2006-TIOL-251-CESTAT-MUM](#)) is not proper for in that case the only reason for classification of tippers under chapter 84 is that similarly placed manufacturers in Mysore Commissionerate had classified the goods in the said heading - in the case of Ganta Ramanaiah Naidu ([2010-TIOL-213-CESTAT-BANG](#)) the Tribunal has held that CENVAT credit cannot be taken on Tippers which are classified under chapter 87 as the same are not falling in the category of capital goods under rule 2(a)(A)(i) of CCR, 2004 - this decision which has examined the matter on merits prevails over the decision in the case of Dipco Metal Fabricators - prima facie appellant is not eligible to avail CENVAT credit on goods classified under chapter 87: CESTAT [para 5.2]

Limitation - as regards limitation, the appellant had filed ST -3 belatedly after commencement of investigation and have not declared the correct amounts of consideration received by them from their clients and hence prima facie appellant has mis-declared the consideration received and extended period is invokable - sine no financial hardship pleaded and balance of convenience lies in favour of Revenue pre-deposit ordered of Rs.2.8 crores within eight weeks: CESTAT [paras 5.3, 5.4 & 5.5]

[Also see analysis of the Order](#)

[2013-TIOL-1101-CESTAT-MAD](#)

M/s LNV Technology Pvt Ltd Vs CST (Dated: February 28, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Contract for setting up of cement plants - Demand of service tax under works contract service - Prima facie, the contracts have essential characteristics of a turnkey contract - Pre-deposit of Rs 80 lakhs ordered.

[2013-TIOL-1097-CESTAT-MUM](#)

Amrit Sanjivni Sugarcane Transport Co Pvt Ltd Vs CCE & CC (Dated: April 2, 2013)

ST – Service brought under the tax net 'Manpower Recruitment or Supply Agency Service' envisages supply of labour per se – work undertaken is harvesting of sugar cane and transporting the same to the sugar factory for which labour is employed – sugar cane belongs to the sugar factory in terms of the agreement executed between the farmer and the sugar factory – therefore activity undertaken by appellant is one of procuring and processing of goods belonging to client which is classifiable under BAS – on supervision charges paid to appellant by the sugar factory appellant has already discharged ST under BAS – order set aside and appeal allowed with consequential relief: CESTAT

[Also see analysis of the Order](#)

[2013-TIOL-1095-CESTAT-MAD](#)

M/s Sree Lotus Exports Vs CCE (Dated: February 22, 2013)

Service Tax - Goods Transport Agency Service - Appellant paid service tax along with interest - Penalty - Appellant is exporter of goods and there is a reasonable cause for non-payment of service tax and is entitled for the benefit of Section 80 of the Finance Act, 1994 - Penalties set aside.

[2013-TIOL-1094-CESTAT-MAD](#)

M/s S Gurumurthy Vs CCE (Dated: February 27, 2013)

ST - Appellant, a proprietorship firm engaged in Practising Chartered Accountant services - Revenue demanding ST for the period October 2003 to 31.3.2006 under the category of "Management Consultancy Services" - appellant submitting that the services provided are only legal service and economic advisory services and in view of Notf. No.59/98-ST dt. 16.10.98 as amended the said services are exempted - demand also time barred. Held: On a perusal of the illustration appearing below the Explanation inserted by amending Notification No.15/02-ST dt.1.8.2002, it is clear that services rendered by a Practising Chartered Accountant or a Practising Cost accountant in connection with the management of any organization in any manner shall be deemed to be taxable service under the category of "Management Consultant" or "Manpower Recruitment Services" - prima facie it appears that services to client BGH Exim Ltd. in the nature of "Advice on macro political and economic input

including national and Global economics and political situation for decision making and guidance needed for policy making" & to M/s. Essel Group in the nature of advice on national and international policies, social and political issues, promoter family interface and harmony and enabling identification of talent in India, especially in rural areas would come within the purview of "Management Consultant Services" - some force in the submission that services in respect of Gujarat Sidhee Cements, Dish net DSL Ltd., Express Publication etc. are purely legal services - limitation factor would be looked into at the time of final hearing - Pre-deposit ordered of Rs.15 lakhs : CESTAT

[2013-TIOL-1093-CESTAT-MUM](#)

Tops Security Ltd Vs CCE (Dated: June 17, 2013)

ST - s. 35F of CEA, 1944 r/w s. 83 of FA, 1994 - Appellant seeking more time to make pre-deposit on the ground that they are 'expecting some refund from department' - submission not acceptable as appellants have already collected ST from customers and has misused the amounts without remitting the same to the exchequer - no leniency is called for - as appellant has not complied with the directions, appeal dismissed for non-compliance: CESTAT [para 2]

[2013-TIOL-1092-CESTAT-MUM](#)

Thermax Ltd Vs CCE (Dated: May 28, 2013)

ST - Appellant getting trade secret from an ex-employee of competitor firm - competitor firm filing suit in US Court - appellant pays for use of trade secret and reaches an out of court settlement as per which the appellant has become a co-owner of the intellectual property - since the transfer is permanent the transaction does not come under the purview of Section 65 (55b) of the FA, 1994 so as to be taxed under the head of Intellectual Property Service - ST demand made on reverse charge basis set aside and appeal allowed: CESTAT

Service Tax - There is no law governing trade secrets/confidential information in India and therefore, the rights obtained by the appellant does not constitute intellectual property right as defined in law. Secondly, it is also very clear from the Circular 80/2004-ST dated 17/09/2004 that a permanent transfer of intellectual property right does not amount to rendering of service. In the present case, the appellant has become a co-owner of the intellectual property which would mean that the transfer is permanent. Therefore, the transaction does not come under the purview of Section 65 (55b) of the Finance Act, 1994 so as to be taxed under the head of Intellectual Property Service - Order set aside and appeal allowed: CESTAT [paras 5.2, 5.4, 5.5, 5.6 & 5.7]

[Also see analysisof the Order](#)

[2013-TIOL-1091-CESTAT-AHM](#)

M/s Intas Pharma Ltd Vs CST (Dated: June 17, 2013)

ST Refund - Substituted provisions of clause/sub-paragraph 'C' of Notification No. 15/2009 cannot be inferred to have imposed any disability on the recipient of services consumed wholly within the SEZ from seeking refund of service tax remitted on such transactions, by the providers of such services - rejection of refund in relation to Architect, Interior Decorators and Consulting Engineer services on the ground that the same has been consumed wholly in the SEZ is unsustainable - O-in-A set aside and

appeal allowed: CESTAT [para 11]

Refund - On true and fair construction of the Notifications issued under Section 93(1) of the Act, considered in the light of the overreaching provisions of Section 7 and 26 (e) of the 2005 Act, the conclusion appears compelling that neither Notification 9/2009 nor 15/2009 disentitle immunity to service tax enjoined by the provisions of the 2005 Act – both the notifications merely contour the process by which the benefit of exemption/immunity to tax is operationalised ; they have provided a facilitative regime whereby a developer or units of SEZ, as recipients of taxable service are enabled the facility of claiming refund of service tax, remitted by taxable service providers in relation to the taxable services provided to a unit in a SEZ - On this harmonious construction, the immunity to service tax provided under Section 7 or 26 of the 2005 Act cannot be so interpreted as to be eclipsed by the procedural prescriptions of the Notifications - these Notifications are calibrated to enable recipients of taxable services (exempt from liability to tax under the provisions of the 2005 Act), to claim refund of the service tax, wherever assessed and collected by Revenue or remitted otherwise by the taxable service provider, inadvertently - Considered in the light of this analysis, the substituted provisions, of clause/sub-paragraph 'C' of Notification No. 15/2009 cannot be inferred to have imposed any disability on the recipient of services consumed wholly within the SEZ, from seeking refund of service tax remitted on such transactions, by the providers of such services – appellant shall be entitled to refund: CESTAT [para 11 & 12]

[2013-TIOL-1090-CESTAT-MAD](#)

Mahindra Holiday And Resorts India Ltd Vs CCE & ST (Dated: March 5, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Club or Association service - Valuation - Demand of service tax on the amounts received towards room rent, interest for delayed payment of membership fee and income from securitization - It is possible that the members also paid room rentals for overstaying and booking for their guests etc - Revenue is also deprived of tax on delayed payment of membership fees, which was liable to be paid at the time of entry - Hence, it is reasonable to pay tax on interest - No prima facie case made out against inclusion of amount received towards room rent and interest - Pre-deposit of Rs 2 crores ordered.

[2013-TIOL-1086-CESTAT-MUM](#)

Tops Security Ltd Vs CCE & ST (Dated: June 18, 2013)

ST - Appellant has collected the service tax from their customers and have failed to remit the same to the exchequer - appellant is a repeated offender and the Tribunal itself in half-a-dozen cases have confirmed pre-deposit of huge amounts which the appellant have collected from their customers - this is not a case where any leniency is merited or required to be shown as it would send a wrong signal to the tax-paying community - Appellant directed to remit balance amount of ST along with interest and report compliance: CESTAT [para 5]

[2013-TIOL-1085-CESTAT-MUM](#)

CCE Vs Kumbhi Kasari SSK Ltd (Dated: May 21, 2013)

ST - Nobody can provide a service to himself - respondent assessee has kept a buffer stock of sugar in their factory in compliance to the directions of the Government of India issued under the Sugar Development Fund Act, 1982 - buffer stock subsidy

received by respondent is not on account of services rendered to GOI but as a compensation on account of loss of interest, cost of insurance etc. incurred on account of maintenance of stock - Just because the storage of free sale sugar had to be extended at the behest of the GOI, neither the sugar mill becomes a 'storage and warehouse keeper' nor the GOI becomes a client - no cause for payment of Service Tax as no service provided - Revenue appeal dismissed: CESTAT [para 5]

[Also see analysis of the Order](#)

[2013-TIOL-1084-CESTAT-MAD](#)

Vodafone Essar Cellular Ltd Vs CCE, CC & ST (Dated: February 28, 2013)

Service Tax - Stay/Dispensation of pre-deposit - CENVAT Credit - CENVAT Credit on towers and shelters - Prima facie case for waiver of pre-deposit in view of the precedent decision.

Demand of credit on the ground of insufficient information on input invoices/payment not made for services - Pre-deposit ordered.

[2013-TIOL-1080-CESTAT-MUM](#)

Maharashtra State Electricity Distribution Co Ltd Vs CCE (Dated: May 27, 2013)

ST - COD - Vacancy in government departments are well known and this cannot be a reason for non-filing of appeals where statutory time limits have been laid down - If the appellant did not have the expertise they should have availed the services of an expert and there are enough number of counsels appointed by the Government for defending their cases - the reason stated is merely of bureaucratic red tape - COD applications and appeal rejected: CESTAT [paras 4, 5 & 6]

[Also see analysis of the Order](#)

[2013-TIOL-1079-CESTAT-DEL](#)

Genus Power Infrastructures Ltd Vs CCE & ST (Dated: May 17, 2013)

Service Tax - Erection, Commissioning or Installation service - CENVAT Credit - Appellant paid service tax only on Erection, Commissioning or Installation service and claimed exclusion of value of material supplied - CENVAT credit on insurance premium paid to the extent of value of material supplied is not admissible and is rightly rejected by the lower authorities - Rule 2(l) of the CENVAT Credit Rules, 2004.

[2013-TIOL-1078-CESTAT-MUM](#)

CCE Vs Asia Pacific Hotels Ltd (Dated: June 21, 2013)

CENVAT - Rule 6 of CCR, 2004 - Rules cannot be interpreted in such a way so as to make them nullity – the purpose and objective of CENVAT Credit Rules is to allow a manufacturer/output service provider not only to take the credit but also to utilize the same for the purposes specified in the rules – therefore, if they are allowed only to take credit and not to utilize the same, the objective of the CCR cannot be achieved –

no reason for interpreting the term "allow" in a narrow and restrictive manner as urged by Revenue – interpretation urged by Revenue defeats the object and purpose of the CCR – Revenue appeal dismissed: CESTAT [para 6]

[2013-TIOL-1077-CESTAT-MUM](#)

Lawrence Travels Vs CCE (Dated: April 3, 2013)

ST - Tour Operator Service - Appellant entering into agreements with various companies for providing services of transport of company employees from residence to office and back - benefit of notfn. 20/2009-ST not available as the notification excludes from its scope hire services - Pre-deposit ordered: CESTAT [paras 5.1 & 6]

[Also see analysis of the Order](#)

[2013-TIOL-1076-CESTAT-MAD](#)

M/s Ornate Creations (P) Ltd Vs CST (Dated: March 5, 2013)

Service Tax - Stay/Dispensation of pre-deposit - Execution of contracts for partitioning, paneling etc - Demand of service tax by denying abatement of material value on the ground that the services are finishing services - Though the service involves usage of material, the appellant has not been forthcoming in producing records showing actual value of such goods and the nature of goods by which a proper estimate of the taxable value can be arrived at - Pre-deposit of Rs 7,50,000/- ordered.