

CESTAT RULING

[2010-TIOL-462-CESTAT-MUM](#)

Tilaknagar Industries Ltd Vs CCE, Aurangabad (Dated: January 15, 2010)

Demand of Service Tax on manufacture of denatured ethylene alcohol by treating it as business auxiliary services – issue already decided in favour by Tribunal in case of Rubicon Formulations [2009-TIOL-1990-CESTAT-MUM](#) – Early hearing allowed.

[2010-TIOL-461-CESTAT-MUM](#)

Aurangabad Auto Engg Pvt Ltd Vs CCE, Aurangabad (Dated: January 14, 2010)

Cenvat Credit - Service Tax paid on cost of loading of excisable goods in the factory for outward transportation and the cost of it's unloading at customer's site – Revenue has acknowledged that GTA service is an input service – obviously GTA service was availed after loading of the goods at factory and before unloading at customers premises – activities of loading and unloading would also qualify as 'input service'- Pre-deposit waived and stay ordered.

[2010-TIOL-457-CESTAT-DEL](#)

M/s HCL Technologies Ltd Vs CCE, Noida (Dated: December 4, 2009)

Service Tax – Stay/dispensation of pre-deposit - CENVAT Credit on capital goods – The invoice on which the capital goods were received classified the goods under 73.08 which is not covered under the definition of capital goods – assessment of the goods at the supplier's end cannot be reopened – alternate plea to consider the goods as inputs is not acceptable as term 'input' would cover only those goods used in providing the services which get either used up or consumed or get transferred to service receiver either as such or in changed form – plea of limitation is also prima facie not acceptable as the auditors and the department and the C&AG conduct only test check and hundred percent records are not checked – pre-deposit ordered.

[Also see analysis of the Order](#)

[2010-TIOL-456-CESTAT-MUM](#)

Automobile Corporation Of Goa Ltd Vs CCE, Pune-I (Dated: January 14, 2010)

Service Tax paid on GTA – Cenvat Credit available as appellatant satisfied all conditions in Board Circular 97/8/2007-ST dated 23.8.2007 viz. goods supplied to customer on FOR destination basis, seller is responsible for damages/loss of goods in transit and freight charges are part of price of the goods delivered at buyer's doorstep

[2010-TIOL-448-CESTAT-MUM](#)

SPA Pharmaceuticals Pvt Ltd Vs CCE & ST, Aurangabad (Dated: January 14, 2010)

Appellant undertaking job work of manufacturing alcohol-based perfumes and pharmaceutical products for various input suppliers – activity stands excluded from purview of “Business Auxiliary Service” inasmuch as it amounts to manufacture u/s 2(f) of CEA, 1944 – issue settled by Tribunal in case of Rubicon Formulations [2009-TIOL-1990-CESTAT-MUM](#) – Demand of service tax and penalties are not sustainable – Appeal allowed.

[2010-TIOL-447-CESTAT-MAD](#)

M/s Carborandum Universal Ltd Vs CCE, Chennai (Dated: December 2, 2009)

Service Tax – Management Consultancy Service vis-à-vis Manpower Supply Service - Penalty – Deputation of staff comes under ‘manpower supply service’ and not under ‘management consultancy service’. The appellants are paying service tax under manpower supply service for the subsequent period after the same has been brought under tax net. Demand on balance amount payable confirmed. However, penalties imposed under Section 76, 77 and 78 of the said Act is waived in terms of Section 80 of the Finance Act, 1994 as there was reasonable cause for their failure to take registration and pay the tax amounts in respect of the new levy. (Para 4 & 5)

[2010-TIOL-443-CESTAT-MAD](#)

M/s Chemplast Sanmar Ltd Vs CCE, Salem (Dated: November 26, 2009)

Service Tax – Separate legal entity – Scope of levy – In the context of service tax liability, different units of a corporate entity will not make them separate legal entities for the purpose of levability to service tax and when one renders service to oneself service tax is not leviable. (Para 2)

[2010-TIOL-440-CESTAT-KOL](#)

M/s Baba Construction Vs CCE & ST, Ranchi (Dated: February 1, 2010)

Appellant undertaking the Work Order for Optical Fibre Cable Laying as per Contract – Demand on Service Tax on the ground that appellant is providing service in relation to site formation – reading of the definition of ‘Site formation and clearance, excavation and earthmoving and demolition’ Prima facie indicates that the appellants’ activity does not get covered – Strong case in favour – pre-deposit waived and stay granted.

[2010-TIOL-439-CESTAT-AHM](#)

M/s Anushakti Chemicals & Drugs Ltd Vs CCE, Rajkot (Dated: January 7, 2010)

Appellant receiving inputs which is inclusive of freight element and transportation – Department demanding service tax on freight from appellant – Lorry Receipt does not show freight amount – invoice issued for supply of input shows it is inclusive of freight – reading both documents a conclusion can be drawn that freight is paid by supplier only and in such a situation liability to pay service tax is on supplier – Strong prima facie case – Pre-deposit waived and stay granted unconditionally.

[2010-TIOL-435-CESTAT-DEL](#)

M/s Bassi Alloys P Ltd Vs CCE, Chandigarh (Dated: January 20, 2010)

ST - Cenvat Credit - Assessee removes inputs and avails credit - subsequently reverses credit availed on the inputs in terms of Rule 3(5) of CCRs, 2004 - Revenue for reversal of credit availed for tax paid on GTA service also which was availed for transporting the inputs - held, in view of lack of express provisions in the CCRs, 2004, for reversing such credit, Commissioner(A) order is not sustainable - Assessee's appeal allowed

[2010-TIOL-434-CESTAT-AHM](#)

M/s Quippo Energy Pvt Ltd Vs CCE, Ahmedabad (Dated: January 5, 2010)

Appellants importing Gas Generating sets from Germany and UK - imported machinery consists of engine coupled with alternator and air inlet filter - thereafter, the appellant procured accessories like radiator, cooling tower, cooling fan, fuel tank, control panel, cables, iron and steel pipes of various sizes etc. and marketed resultant product as "Power Pack" – Revenue after visit to unit in July 2008 alleging that the process undertaken amounts to manufacture and demanding duty of Rs.7.08 Crores – demand confirmed along with penalty and interest – Appellant seeking clarification from department in year 2007 as to whether activity amounts to manufacture – Superintendent informing in the affirmative – Appeal filed with CESTAT after Commissioner(A) rejected their claim and same is pending – whether larger period can be invoked – since duty paying documents available if Cenvat credit allowed on imported items and domestic inputs exercise would be revenue neutral – Strong prima facie case – for waiver of pre-deposit and unconditional stay – Stay allowed.

[2010-TIOL-433-CESTAT-KOL](#)

M/s Thriveni Earthmovers Pvt Ltd Vs CCE & ST, Bhubaneswar-II (Dated: February 1, 2010)

Appellant entering into contract with Tata Iron & Steel for providing service relating to excavation and transportation of Run of Mine (ROM) - Transportation of goods is within the mining area - Revenue raising and confirming a service tax demand of Rs.1.24 Crores on the ground that appellant providing Business Auxiliary Service and Cargo Handling Service - CESTAT in the case of *CCE, vs. B.K.Thakkar (2008-TIOL-148-CESTAT-KOL)* has held that transportation within the mining area is part of mining activity and hence, the assessee is not separately liable to pay Service Tax - Strong prima facie case in favour as the Contract is for mining, and 'Mining Service' comes under the scope of Service Tax w.e.f.01.06.2007 - present demand is prior to this period - Waiver of pre-deposit of the amount of Service Tax, interest and penalty - Stay Petition allowed.

[2010-TIOL-429-CESTAT-AHM](#)

M/s Modern Petrofils Vs CCE, Vadodara (Dated: February 5, 2010)

ST - Cenvat Credit of ST paid on GTA services for outward freight from factory to port of export - Revenue argues that the point of removal can only be the factory or a warehouse or a depot - Assessee treats port as place of removal - held, in view of the Larger Bench decision in the case of ABB Ltd the case is settled in favour of the assessee and the fact that the Karnataka HC has stayed the decision will not make any impact - Revenue's appeal dismissed

[2010-TIOL-428-CESTAT-AHM](#)

M/s Tanaton Vision Vs CCE, Surat-I (Dated: February 5, 2010)

ST - Cable operator - Assessee's premises are visited by the preventive team - two concerns found to be operating from the same premises - common show cause notice issued - penalty under Sections 77 & 78 imposed - tax with interest paid - commissioner reviews the order and imposes penalty under Sec 76 - held, Commissioner has no power to levy penalty if lower authorities have not imposed it under Sec 76 - Assessee's appeal allowed

[2010-TIOL-427-CESTAT-DEL](#)

M/s Samtel Colour Ltd Vs CST, Ghaziabad (Dated: January 18, 2010)

ST - service recipient - assessee pays commission to foreign company - Revenue raises demand from 2002 to 2007 - assessee argues the liability arises only from 1.10.2005 and deposits the tax - Revenue further alleges the assessee provided clearing and forwarding agent service between 2002 to 2003 - Held, since the assessee has already deposited a major part of the demand, waiver from pre-deposit granted

[2010-TIOL-422-CESTAT-KOL](#)

M/s HI-TEK Powercon Pvt Ltd Vs CCE & CST, BBSR-I (Dated: December 12, 2009)

ST - Cenvat Credit on outward GTA service - Revenue raises demand - held, since freight is not an integral part of the excisable goods in this case the P&H HC decision in Gujarat Ambuja will not apply - not a fit case for waiver of pre-deposit

[2010-TIOL-417-CESTAT-KOL](#)

M/s Brahmaputra Enterprise Vs CCE, Shillong (Dated: January 11, 2010)

ST - Penalty under Sec 76 - condonation of delay - assessee fails to file appeal against levy of penalty within limitation period - files necessary affidavit showing reasons for delay with appeal petition - Commissioner (Appeals) rejects - held, since the assessee has filed affidavit for delay, waiver from pre-deposit granted and issue remanded

[2010-TIOL-416-CESTAT-DEL](#)

M/s Secure Meters Ltd Vs CCE, Jaipur (Dated: January 20, 2010)

ST - Cenvat Credit - Assessee receives certain services from two service providers - at the time of providing the services the service providers had no registration - they take registration later and raise supplementary invoices on the assessee which avails cenvat credit - Revenue denies it - held, since the input services have been availed to provide output services and the service providers have taken registration and paid taxes, cenvat credit cannot be denied - Assessee's appeal allowed

[2010-TIOL-415-CESTAT-DEL](#)

Shri Ram Prakash Vs CCE, Jalandhar (Dated: January 4, 2010)

ST - Classification of service - Assessee pleads it is into manpower supply service - Revenue takes the stand that it is cargo handling service - held, the point where manpower supply ends, begins the cargo handling service - fit case for waiver of pre-deposit

[2010-TIOL-405-CESTAT-DEL](#)

CCE, Meerut Vs M/s Anand Track & Field Equipment Pvt Ltd (Dated: December 15, 2009)

Appellate authority has arrived at the finding that assessee has not been enriched by any double claim i.e. drawback on one hand and the refund of Service Tax on the other hand for the same export – No contrary claim available with Revenue - appeal dismissed.

[2010-TIOL-404-CESTAT-BANG](#)

M/s Balasai Travels, Kurnool Vs CCE, Tirupathi (Dated: October 26, 2009)

Service Tax – Rent – a – Cab Scheme Service - In round one of litigation Appellate Commissioner waived pre-deposit accepting plea of financial hardship but in remand proceedings insisted on pre-deposit – Offer of pre-deposit of Rs. 35,000/- for tax liability on provision of passenger vehicles accepted – Appellate Commissioner directed to dispose of appeal on merits

[2010-TIOL-400-CESTAT-DEL](#)

M/s Deep Mani Tour & Travels Vs CCE, Jaipur (Dated: January 1, 2010)

Condonation of delay in filing appeal - No one shall prefer to prejudice himself when there was huge demand faced by him - Causes of justice cannot be overlooked by technicality of delay – delay within condonable period as available within the discretionary power conferred to Commissioner(A) - appeal of the appellant should not be thrown out from the process of justice at the thresholds – Matter remanded for examination in light of SC decision in Mst Katji and others ([2002-TIOL-444-SC-LMT](#).)

[2010-TIOL-397-CESTAT-AHM](#)

M/s Avaya Global Connect Ltd Vs CCE, Ahmedabad (Dated: January 16, 2010)

Once a service tax paid on input services has not been taken at all, the provisions of Rule 6(3)(c) of Cenvat Credit Rules would not be applicable - Commissioner's view that even if cenvat credit on common input services is not taken, appellant is required to maintain separate accounts not proper - unless the department shows that appellants have availed credit of input services which have also been used for providing any of the exempted services, the demand cannot be sustained – Matter remanded for verification of actual position.

[2010-TIOL-394-CESTAT-DEL](#)

M/s Jhunjhunwala Vanaspati Ltd Vs CCE, Allahabad (Dated: September 22, 2009)

Appellant instead of confining the capital goods credit to 50% took full credit - appellant had reversed the entire disputed amount along with interest as soon as it was pointed out - both the SCN and the adjudication order do not advert to any element of Section 11AC like willful mis-statement, fraud, suppression of fact etc. - Moreover neither the SCN demands any duty nor in the adjudication order any duty demand has been confirmed - no cause for imposition of any penalty under rule 13/15 of the CCR, 2002/2004

[2010-TIOL-387-CESTAT-MAD](#)

M/s Suolificio Vs CST, Chennai (Dated: November 20, 2009)

Service Tax - No service tax is payable on the services received from outside India prior to 18.04.2006.

[2010-TIOL-386-CESTAT-KOL](#)

M/s Tata Steel Ltd Vs CCE & ST, Jamshedpur (Dated: October 14, 2009)

Service Tax - Tax liability being a creature of statute and borne by statutory provisions cannot be determined or apportioned based on agreement entered between the applicant and foreign service provider - Demands prior to introduction of section 66A of Finance Act w.e.f 18.04.2006 when the service recipient is made liable to pay Service Tax - Pre-deposit waived and recovery stayed.

[2010-TIOL-382-CESTAT-BANG](#)

M/s Roman Tarmat Ltd Navi Vs CCE, CC & ST, Cochin (Dated: October 29, 2009)

Service Tax - Site formation and Clearance Services - Activity of site formation undertaken by appellant for M/s Power Grid Corporation Ltd not covered by works contract service - Appellant entitled to benefit of [Notification 12/2003-ST](#) for sale of red mud - Pre-deposit of Rs. 5 lakhs ordered

[2010-TIOL-381-CESTAT-BANG](#)

M/s Fire Controls Vs CCE, Mysore (Dated: October 27, 2009)

Service Tax - Manpower Recruitment and Supply Agency Service - Activity of packing medical equipments under contract from manufacturer prima facie not manpower recruitment and supply agency service - Full waiver of pre-deposit ordered and stay granted

[2010-TIOL-375-CESTAT-AHM](#)

M/s Lucky Security & Personnel Services Vs CST, Ahmedabad (Dated: January 7, 2010)

Rent-a-cab service – Merits of demand not disputed – claim that demand confirmed without invoking section 73(1)(a) of Finance Act, 1994 unfounded – No prima facie case – applicant directed to make pre-deposit of entire amount.

[2010-TIOL-374-CESTAT-BANG](#)

M/s Macmillan India Ltd Vs CST, Bangalore (Dated: October 23, 2009)

Service Tax – Payment of commission to agents appointed abroad – No prima facie case for complete waiver of pre-deposit – Pre-deposit of Rs. 35 lakhs ordered

[2010-TIOL-372-CESTAT-MUM](#)

Kalsis Kitchenette Vs CCE, Pune (Dated: February 5, 2010)

Even after receipt of the show-cause notice, appellant continued the default and it was only after more than one year since the receipt of the SCN that they started paying service tax - Bona fides not proved – Pre-deposit ordered of penalty

[Also see analysis of the Order](#)

[2010-TIOL-371-CESTAT-DEL](#)

M/s Singh Tourist Service Vs CCE, Allahabad (Dated: November 19, 2009)

Appellants providing rent-a-cab service to IFFCO - whether the payment received from IFFCO is to be treated as cum tax amount - since this point had not been raised before the Commissioner (Appeals), matter remanded - As appellant had paid the entire amount along with interest prior to issue of SCN the appellant would be eligible for reduced penalty under first proviso to Section 78 – Delhi HC decision in K.P.Pouches(P) Ltd. vs - UOI ([2008-TIOL-240-HC-DEL-CX](#)) relied upon.

[2010-TIOL-370-CESTAT-MAD](#)

CCE, Chennai Vs M/s Vellore Shoe Fabrik (Dated: December 22, 2009)

Service Tax - No service tax is leviable on import of services prior to introduction of Section 66A – Appeal dismissed following the ratio of Bombay HC decision in case of M/s Indian National Ship Owners Association, upheld by the Supreme Court in [2009-TIOL-129-SC-ST](#)

[2010-TIOL-366-CESTAT-MUM](#)

Chate Coaching Classes Pvt Ltd Vs CCE & CC, Aurangabad (Dated: February 15, 2010)

Service Tax – Commercial Training and Coaching Service – Demand for period prior to insertion of Explanation in Service Tax Rules, 1994 regarding value of taxable service received prior to providing taxable service – prima facie case in favour but for later period post October 2004 appellant ordered to make pre-deposit

[Also see analysis of the Order](#)

[2010-TIOL-365-CESTAT-DEL](#)

M/s Hammatsu Pipe Co Ltd Vs CST, New Delhi (Dated: January 4, 2010)

Service tax - Consulting engineering service - Assessee pays royalty and licence fee for transfer of technical knowhow from non-resident company - held, since it is not very clear how the service was rendered and also the fact that the first appellate authority did not call for pre-deposit, waiver from pre-deposited granted

[2010-TIOL-364-CESTAT-MAD](#)

M/s Anand Agencies Vs CCE (Service Tax), Coimbatore (Dated: October 9, 2009)

Service Tax – Penalty – Sections 76 and 78 are mutually exclusive – Penalty under Section 76 set aside.

[2010-TIOL-359-CESTAT-MUM](#)

Jagdish Oil Mills Vs CCE, Aurangabd (Dated: February 10, 2010)

While confirming the penalty, the adjudicating authority has to go into the merits to establish suppression of the material facts with an intention to evade the payment of service tax

[Also see analysis of the Order](#)

[2010-TIOL-355-CESTAT-MAD](#)

M/s Safe Test Enterprises Vs CCE, Salem (Dated: November 18, 2009)

Service Tax – Penalty under Section 76 and Section 78 are mutually exclusive – penalty under Section 76 set aside and penalty under Section 78 reduced to 25% in terms of Section 73(2) as the assessee has paid the service tax prior to the issue of show cause notice.

[2010-TIOL-353-CESTAT-BANG](#)

M/s ICE Network Pvt Ltd Vs CST, Bangalore (Dated: November 6, 2009)

Service Tax – Advertising/Broadcasting Service and Multi System Operator Service – When reasonable cause is shown by appellant for failure to discharge service tax liability, no infirmity in adjudicating authority invoking Section 80 of Finance Act for waiver of penalties – Provisions of Section 80 can be invoked in the absence of any fraud, collusion, misrepresentation etc – Imposition of penalty by Commissioner in review order not justified – Penalties set aside

[2010-TIOL-348-CESTAT-MAD](#)

JPP Mills Private Ltd Vs CCE, Salem (Dated: December 17, 2009)

Service Tax - Condonation of delay - the appellant filed appeal against that part of the order confirming the demand – bonafide belief that they were not required to file appeal against the revision order by the Commissioner against dropping the other part of the demand is not acceptable - COD application, Stay application and the Appeal dismissed.

[2010-TIOL-343-CESTAT-BANG](#)

M/s Bhel-Ge Turbine Service Pvt Ltd Vs CCE, Hyderabad (Dated: December 4, 2009)

Service Tax – Availment of credit on common inputs used for providing taxable services and activity of trading in parts – For the purpose of interpreting Rule 6 (3) (c) of CCR, 2004 exempted services as mentioned in Clause 2(e) of CCR would cover only services which are notified and not those services on which no service tax is leviable under Section 66 of Finance Act, 1994 – Reversal of credit attributable to common inputs sufficient to consider the matter and dispose it on merits – Pre-deposit of balance amount waived and stay granted

2010-TIOL-342-CESTAT-DEL
CCE, Indore Vs M/s Detective & Security Service (Dated: December 17, 2009)
In view of separate registration taken and granted by departmental authorities, short payment of service tax at Trivandrum office cannot be dealt with C.Ex. officers at Indore - appellate order is set aside and the matter remanded to adjudicating authority to segregate service tax liability relating to different jurisdictions and adjudicate the matter relating to his jurisdiction.
2010-TIOL-339-CESTAT-BANG
M/s SAP India Pvt Ltd Vs CST, Bangalore (Dated: October 28, 2009)
Service Tax – Maintenance & repair services for software systems – When department is aware of activity undertaken by appellant suppression cannot be invoked – Tax paid to the extent of Rs. 6.29 crores accepted as pre-deposit and balance of Rs. 35 crores waived – Stay granted
2010-TIOL-338-CESTAT-BANG
M/s MSPL Ltd Vs CCE, Belgaum (Dated: October 20, 2009)
Service Tax – Eligibility of CENVAT Credit on input services consumed in processing and export of iron ore – Matter covered by Mumbai High Court decision in Repro India Ltd = 2007-TIOL-795-HC-MUM-CX – Prima facie case for waiver of pre-deposit
2010-TIOL-332-CESTAT-MAD
CCE, Coimbatore Vs Elgi Ultra Industries Ltd (Dated: November 11, 2009)
Service Tax – Goods Transport Agency service – service tax on the goods directly supplied to the job worker by principal manufacturer – since the job-worker is the consignee who has already paid the service tax, demand on the supplier manufacturer is not sustainable – no reason to interfere with the Commissioner (Appeals) order.
2010-TIOL-331-CESTAT-BANG
M/s Gati Ltd Vs CCE, Hyderabad (Dated: October 21, 2009)

Service Tax – Services rendered in Nepal for Nepali customers and receipt of amounts accounted in Nepal itself, not liable for service tax in India – Full waiver of pre-deposit ordered and stay granted

[2010-TIOL-325-CESTAT-BANG](#)

M/s Idea Cellular Ltd Vs CCE & CC, Hyderabad (Dated: October 29, 2009)

Service Tax – Whether appellant is eligible to utilize 20% of credit for the entire year as a whole or should the same be restricted to monthly availment and utilization in terms of Rule 6(3)(c) – Decision in [2009-TIOL-387-CESTAT-DEL](#) in appellant's own case followed – Pre-deposit waived and stay granted

[2010-TIOL-324-CESTAT-BANG](#)

M/s Orange Logisys (P) Ltd Vs CST, Hyderabad (Dated: November 9, 2009)

Service Tax – Purchase and sale of space on liners to customers not liable to service tax – Taxability of brokerage received from liners, whether to be treated as reimbursement – Pre-deposit of Rs. 36,324/- ordered

[2010-TIOL-323-CESTAT-MUM](#)

British Scaffolding International Ltd Vs CCE, Nashik (Dated: January 14, 2010)

Service Tax - Notification 41/2007-ST as amended by 32/2008-ST and 33/2008-ST – refund claim for quarter ending June 2008 filed on 11.09.2008, whether time barred – Matter remanded for examining issue with reference to Board Circular 112/06/2009-ST

[Also see analysis of the Order](#)

[2010-TIOL-322-CESTAT-BANG](#)

M/s Shailaja Earth Movers Vs CCE, Belgaum (Dated: October 21, 2009)

Service Tax – Mining Service – Activities like excavation, extraction, grading, sorting of iron ore from mines is 'Mining Service' liable for service tax only w.e.f. 01.06.2007 – Full waiver of pre-deposit ordered and stay granted

[2010-TIOL-321-CESTAT-MAD](#)

Shanti Fortune (I) Pvt Ltd Vs CCE (ST), Coimbatore (Dated: November 13, 2009)

Service Tax – Goods Transport Agency service – the appellant, who is the recipient of the service, is not liable to pay service tax as the service was provided by the individual truck operators, but not by the Goods Transport Agency

[2010-TIOL-312-CESTAT-BANG](#)

M/s Yeses Infrastructure Pvt Ltd Vs CCE, Visakhapatnam (Dated: September 11, 2009)

Service Tax – Erection, commissioning and installation of plant, machinery and equipment under composite contracts – A P Sales tax authorities assessed them as works contracts and collected sales tax thereon – Activities like erection, commissioning and installation services and turnkey contracts specifically included under the category of 'Works Contract' and liable to be taxed from only 1.6.2007– Prima facie case for full waiver of pre-deposit and stay granted

[2010-TIOL-311-CESTAT-BANG](#)

M/s Valsala Travels Pvt Ltd Vs CST, Bangalore (Dated: October 06, 2009)

Service Tax – Tour Operator Service – Appellants claim that sub-contractor not leviable to tax when principal tour operator paid service tax – No evidence brought forth to support the claim – Pre-deposit of Rs. 85 lakhs ordered

[2010-TIOL-304-CESTAT-BANG](#)

Information Technology Park Ltd Vs CST, Bangalore (Dated: November 20, 2009)

Service Tax - Construction of commercial building by ITPL, an SEZ Developer to SEZ units whether eligible for exemption in terms of Notification No. 4/2004-ST – Appellant paid service tax initially and later on claimed refund of service tax by availing Notfn 4/04-ST – Refund claim rejected by a non-speaking order and without putting appellant on notice for grounds of rejection – Matter remanded for de novo consideration

[2010-TIOL-303-CESTAT-BANG](#)

M/s Jaacsons Enterprises Vs CCE, Mangalore (Dated: October 26, 2009)

Service Tax – Stitching of bags for fertilizers by sub-contractor – If service tax is discharged by original contractor, no tax liability on sub-contractor – Issue involved prior to issue of Master Circular dated 23.08.2007 – Pre-deposit waived and stay granted

[2010-TIOL-299-CESTAT-DEL](#)

CCE, Lucknow Vs M/s Awadh Transformers Pvt Ltd (Dated: January 5, 2010)

ST - GTA Service - Assessee avails GTA Service but fails to pay tax - On being pointed out, pays tax with interest before issue of SCN - Revenue imposes penalties - Commissioner(A) sets aside fine and penalty u/s 76 and reduces penalty u/s 78 - held, for GTA Service the tax can be paid by either the service provider or the recipient or the one who dispatches the goods and therefore, there was scope for misunderstanding - the fact that the assessee has paid tax with interest before issue of SCN and also that penalties under service tax are not mandatory, it calls for leniency - Commissioner(A) order upheld - Revenue's appeal dismissed

[2010-TIOL-298-CESTAT-DEL](#)

M/s Bansal Alloys & Metals Ltd Vs CCE, Chandigarh (Dated: July 27, 2009)

ST - Cenvat Credit - Assessee is a manufacturer - avails credit on input, capital goods and input service as per Rule 3(1) - also avails credit on tax paid on GTA service - removal of inputs as such - assessee reverses all cenvat credit except the input service - Revenue imposes penalty - held, Rule 3(5) does not indicate for payment of equal amount in respect of credit of input service. Assessee's appeal allowed

[2010-TIOL-296-CESTAT-DEL](#)

CCE, Kanpur Vs M/s Geeta Inds (P) Ltd (Dated: October 5, 2009)

Service Tax – Stay/Dispensation of pre-deposit – CENVAT credit on invoice issued after 10.9.2004 in respect of structural work undertaken prior to 10.9.2004 – Considering the nature of the work, the description of the service provided, it is difficult to accept the contention on behalf of the appellants that all such services could have been rendered only after 10th September, 2004 and, therefore, *prima facie*, there is no fault in the finding arrived at by the authorities below – pre-deposit of the tax amount ordered – deposit of interest and penalty waived.

[2010-TIOL-291-CESTAT-DEL](#)

Dabur India Ltd Vs CCE, Ghaziabad (Dated: January 11, 2010)

ST - Management Consultancy Service - Assessee enters into a contract with a foreign concern for use of trademark - held, going by the definition of the management consultancy service, this is not a fit case to order pre-deposit - no recovery during pendency

[2010-TIOL-290-CESTAT-DEL](#)

CST, Delhi Vs M/s World Vision (Dated: November 17, 2009)

ST - Cenvat Credit - Revenue denies Cenvat Credit and passes ex-parte order - Commissioner(A) remands the case and directs the adjudicating authority to pass speaking order - Revenue takes the stand that the Commissioner(A) does not have powers u/s 35A to remand an appeal - held, the provisions of Section 85 of Finance Act,1994 and Section 35A of Central Excise Act,1944 are different and Sec 85 does not restrict the powers of Commissioner(A) to remand the issue for denovo adjudication - Revenue's appeal dismissed

[2010-TIOL-289-CESTAT-DEL](#)

M/s Unique Cable Network Vs CCE, Kanpur (Dated: December 29, 2009)

ST - Multi-system operator - Assessee receive signals from broadcasters and provide the same to cable operators - charge fee for such services - treats cable operators as its service providers and utilises the service tax paid by cable operators as cenvat credit for discharging its own liability - also files return and TR-6 challans to the Revenue - error detected by Revenue - penalty imposed - held, it is strange that the assessee which is itself a service provider treated its service recipients as providers of service and availed credit - since tax was not paid on the sum collected from cable operators, there is no ground for waiver of penalty - Assessee's appeal dismissed

[2010-TIOL-281-CESTAT-DEL](#)

M/s Dynamic Garage And Carrier Bhopal Pvt Ltd Vs CCE, Bhopal (Dated: December 15, 2009)

ST - Rent-a-Cab Operator - Assessee takes registration but stops paying tax on alleged ground of confusion - Penalty imposed - held, since the assessee paid that tax only because of the search operation and made a case under Sec 73 - the levy under Sec 73 is not under challenge and it calls for penalty under Sec 78 - but Sec 78 has undergone an amendment to grant concession of penalty - matter remanded

[2010-TIOL-280-CESTAT-KOL](#)

M/s Ripley & Company Ltd Vs CCE & ST, JSR (Dated: October 6, 2009)

ST - Site formation service - Assessee enters into contract for hiring of heavy machineries and mining service - claims to be providing composite service - held, the assessee had apparently entered into three contracts and two of them were for mining and other incidental activities and the terms of conditions of contract do not stop the assessee from only hiring of equipment but blasting, loading and stacking of materials - Revenue has a prima facie strong case - Pre-deposit ordered

[2010-TIOL-274-CESTAT-AHM](#)

M/s Idial Security Organisation Vs CST, Ahmedabad (Dated: January 1, 2010)

ST - Security Agency Service - Assessee fails to take registration and pay tax - on being pointed out assessee pays tax with interest - contests penalty - held, since the assessee is a small concern and was ignorant about the law but deposited the tax with interest it is a fit case for invocation of Sec 80 to set aside penalty - Assessee's appeal allowed

[2010-TIOL-273-CESTAT-AHM](#)

M/s Gujarat State Petronet Ltd Vs CCE, Ahmedabad (Dated: January 4, 2010)

Service Tax - Stay/Dispensation of pre-deposit - CENVAT Credit on Construction Service, Erection / Commissioning and Installation service used for execution of pipeline project is prima facie admissible.

[Also see analysis of the Order](#)

[2010-TIOL-272-CESTAT-AHM](#)

M/s Gujarat State Petronet Ltd Vs CCE, Ahmedabad (Dated: January 4, 2010)

Service Tax - Stay/Dispensation of pre-deposit - Clearing and Forwarding Agent Service vis-à-vis Transport of goods through pipeline - the applicants are paying service tax from 16.6.2005 under " Transportation of goods through pipeline" service - the activity of transporting natural gas through pipeline cannot be treated as Clearing and Forwarding Agent Service - when an activity is made liable to service tax from particular date, such activity is not taxable under pre-existing service category when definition of earlier categories not changed - demand of service tax prior to 16.6.2005 is prima facie not sustainable - pre-deposit waived.

[Also see analysis of the Order](#)

[2010-TIOL-271-CESTAT-AHM](#)

M/s Gujarat State Petronet Ltd Vs CCE, Ahmedabad (Dated: January 4, 2010)

Service Tax - Stay/Dispensation of pre-deposit - CENVAT Credit on pipes used by the EPC contractor in construction of pipeline used by the applicant for rendering the service of " transportation of goods through pipeline" is prima facie admissible - If the EPC contractor availed the benefit of Notification 12/2003 ST and did not include the value of pipes for payment of service tax, it cannot be a ground for denial of credit on pipes to the applicant - Pre-deposit waived.

[Also see analysis of the Order](#)

[2010-TIOL-260-CESTAT-DEL](#)

M/s Modinagar Paper Mills Ltd Vs CCE, Ghaziabad (Dated: December 29, 2009)

Central Excise - CENVAT Credit - demand of CENVAT credit on the capital goods sold - revenue has adduced no evidence contrary to the contention of the appellant that the capital goods were purchased in the year 1980-81 and no CENVAT Credit had been availed - demand under Rule 3(4) of the CENVAT Credit Rules is not sustainable.

[2010-TIOL-259-CESTAT-DEL](#)

M/s Chandan Electricals Vs CCE, Ludhiana (Dated: December 15, 2009)

ST - Maintenance and Repair Service - While conducting audit of a third party the Revenue comes across service provided by the assessee - demand raised and penalty imposed - Commissioner(A) partly upholds demand but sets aside penalty - held, since no malafide is established and appellant's attitude to comply with law is appreciated, there is no ground for penalty - invocation of Sec 80 upheld - Assessee's appeal allowed

[2010-TIOL-258-CESTAT-DEL](#)

M/s Jindal Steel & Power Ltd Vs CCE, Raipur (Dated: December 11, 2009)

ST - Cenvat Credit - Assessee is a manufacturer - avails credit for duty paid on inputs used in generation of electricity in the factory but the same is not used in relation to manufacture and sold outside factory - held, issue is no longer res integra in view of Apex Court's decision in the case Solaris Chemtech ([2007-TIOL-135-SC-CX](#)) - Assessee's appeal dismissed

[2010-TIOL-255-CESTAT-AHM](#)

CST, Ahmedabad Vs M/s Unimark Remedies Ltd (Dated: January 5, 2010)

ST - Service recipient from abroad - No tax prior to 18.04.2006 - since assessee's case pertains to period prior to 18.04.06, it is not taxable

[2010-TIOL-246-CESTAT-DEL](#)

M/s Flex Industries Ltd Vs CCE, Noida (Dated: January 8, 2010)

ST - GTA Service recipient - Assessee pleads since the case is pending before the Larger Bench, the initial deposit may be treated as sufficient sum to protect the interests of Revenue and when many questions of interpretation of law are involved, more pre-deposit may not be insisted upon - held, sum deposited initially is enough to grant waiver from more deposits - Stay granted

[2010-TIOL-245-CESTAT-DEL](#)

M/s A R Casting (P) Ltd Vs CCE & ST, Chandigarh (Dated: December 22, 2009)

ST - Cenvat Credit - Assessee is a manufacturer of non-alloy steel ingots - pays central excise and avails cenvat credit on inputs and capital goods - also takes credit of GTA service availed for transportation of input goods - Removal of input goods as such - assessee reverses credit taken for excise duty paid - Revenue insists on reversal of credit taken for service tax as well - held, the provisions of sub-rule (5) of Rule 3 of Cenvat Credit Rules, 2004, talks about reversal of credit taken for excisable inputs only and not input services - Assessee's appeal allowed

[2010-TIOL-243-CESTAT-DEL](#)

M/s Agilent Technologies India Pvt Ltd Vs CCE, New Delhi (Dated: November 23, 2009)

Service tax - stay / dispensation of pre-deposit - Business Auxiliary Service and Maintenance or Repair service - Revenue raises two demands under two different heads - assessee argues that it is a case of export of services to Singapore and exports is exempted - held, going by documents, the services were provided in India and there is no case for export of service - Pre-deposit ordered

[2010-TIOL-234-CESTAT-DEL](#)

M/s Nagar Nigam Vs CCE, Jaipur-I (Dated: December 10, 2009)

ST - renting of commercial property - assessee is a municipal body - leases out land and collects rent - receives letter from Revenue authorities regarding tax liability on

such a service - assessee convinces the tenants, collects tax and the deposits the same with interest - Revenue imposes penalty - held, since it is a case of bona fide mistake and the fact that the assessee is a local authority and has regularly been filing return and paying taxes after the first instance, it is a fit case for invocation of Sec 80 - assessee's appeal allowed

[2010-TIOL-233-CESTAT-DEL](#)

M/s Convergys India Service Pvt Ltd Vs CST, Delhi (Dated: December 11, 2009)

ST - export of service - Assessee claims rebate for input services utilised in export of services - Revenue partly rejects the rebate claim - Commissioner invokes powers u/s 84 and orders recovery of the claim settled in cash and credit of the same to the Consumer Welfare Fund on the ground of unjust enrichment - Revenue alleges violation of Notification No 12/2005 - held, if there is violation of the relevant Notification, the rebate claims should have been rejected in toto and the Commissioner should not have sanctioned the claim partly - waiver from pre-deposit granted and stay on recovery ordered

[2010-TIOL-226-CESTAT-MAD](#)

M/s Bhari Metal Fabrication Pvt Ltd Vs CST, Chennai (Dated: September 23, 2009)

Service Tax – Stay/Dispensation of pre-deposit – Erection, commission or Installation service – no prima facie case has been made out for extending the benefit under Notification No 12/2003 ST dated 20.6.2003 – pre-deposit ordered.

[2010-TIOL-225-CESTAT-AHM](#)

M/s Sushant Gupta Vs CST, Ahmedabad (Dated: October 30, 2009)

ST - Consulting engineering service - delay in filing return and also payment of service tax - demand raised - assessee pays tax with interest - held, it is a fit case for invocation of Sec 80 as the assessee is an individual and he had undergone surgery which resulted in the delay - penalty set aside - assessee's appeal allowed

[2010-TIOL-222-CESTAT-BANG](#)

M/s IVRCL Infrastructures And Projects Ltd Vs CCE, Hyderabad (Dated: September 22, 2009)

Service Tax – Commercial or Industrial Construction Service – Laying of pipelines for drinking water supply projects, prima facie not leviable to tax under Commercial or Industrial Construction Service – Full waiver of pre-deposit and stay granted

[2010-TIOL-221-CESTAT-BANG](#)

M/s Cairn Energy India Pvt Ltd Vs CCE, Visakhapatnam (Dated: October 23, 2009)

Service Tax – Port Service – Taxability of pilotage charges recovered from public sector oil companies for services rendered by appellants at Ravva Port through contractors – Activities undertaken at port by any person would be taxable as port services only if they are based on an authorization issued under Section 42(3) of Major Port Trusts Act – Impugned demand of service tax and imposition of penalties not in accordance with law – Complete waiver of pre-deposit ordered and stay granted

[2010-TIOL-219-CESTAT-BANG](#)

M/s Daspalla Hotels Ltd Vs CCE, Visakhapatnam (Dated: July 30, 2009)

Service Tax – Taxability of food and beverages supplied under contract for service prior to July 2003 – Payment of service tax and VAT are mutually exclusive – Once VAT/sale tax is discharged on food, beverages, etc. assessee not required to pay service tax on the same value – Impugned service tax demand not sustainable – Apex Court decisions in *BSNL* case = [2006-TIOL-15-SC-CT-LB](#) and *Imagic Creative* case = [2008-TIOL-04-SC-VAT](#) followed

[2010-TIOL-213-CESTAT-BANG](#)

Ganta Ramanaiah Naidu, Nellore Vs CCE, Guntur (Dated: September 10, 2009)

Service Tax – Site formation and Clearance Service – Classification of tippers under Chapter 87 as 'motor vehicles' by the supplier attained finality – Denial of credit on 'tippers' upheld in view of exclusion of 'motor vehicles' from eligibility of credit except under circumstances specified in CENVAT Credit Rules – Appellants contention that they only availed CENVAT Credit but not utilized the same for payment of service tax not disputed by adjudicating authority, penalty and interest not sustainable – Impugned order set aside to this extent only

[2010-TIOL-209-CESTAT-BANG](#)

M/s Hindustan Aeronautics Ltd Vs CST, Bangalore (Dated: September 10, 2009)

ST - Maintenance or Repair Service - Assessee is a PSU - enters into contract with the Ministry of Defence to provide maintenance service to its aircraft engines - Revenue alleges suppression of taxable value by excluding value of materials consumed - interest u/s 75 levied and penalty imposed - held, going by the invoices the assessee clearly mentions the value of consumables and the labour cost as it follows fixed price quotation - eligible for exemption under Notification No 12/2003-ST as it clearly

records value of materials utilised for providing the service - assessee has been correctly discharging its service tax liability - Assessee's appeal allowed

[2010-TIOL-208-CESTAT-DEL](#)

CCE, Indore Vs M/s M P Financial Corpn (Dated: December 7, 2009)

ST - COD clearance - Dispute between the Central Govt and a State Govt entity - held, as per the law laid down by the Apex Court, the CoD clearance is necessary even for a dispute between the Union Govt department and an entity of the State Govt - Revenue's appeal dismissed

[2010-TIOL-200-CESTAT-AHM](#)

M/s Vallabh Vidyanagar Concrete Factory Vs CCE & CC, Vadodara (Dated: October 27, 2009)

Central Excise - CENVAT Credit - there is no bar on availing CENVAT Credit on input services by SSI units working under exemption Notification 8/2003 CE dated 1.3.2003 - the restriction under Notification 8/2003 CE is applicable only for inputs, but not for input services or capital goods.

[Also see analysis of the Order](#)

[2010-TIOL-199-CESTAT-BANG](#)

M/s Vikas Coaching Centre Vs CCE, Guntur (Dated: November 30, 2009)

Service Tax – Commercial Training and Coaching Service – Hostel and mess charges collected from students not includible in taxable value – Prima facie case for full waiver of pre-deposit

[2010-TIOL-194-CESTAT-BANG](#)

M/s Dr Reddy's Lab Ltd Vs CCE, Hyderabad (Dated: September 18, 2009)

Service Tax - Air Travel agent, Rent-a-Cab Operator scheme, Outdoor catering service and Servicing of motor vehicles are input services – Service tax paid thereon eligible as input credit – Impugned order incorrect, liable to be set aside

[2010-TIOL-185-CESTAT-AHM](#)

Pierlite India Pvt Ltd Vs CCE, Ahmedabad (Dated: September 23, 2009)

ST - Cenvat Credit - Assessee avails credit of service tax paid by the job worker - Revenue issues SCN for recovery of credit availed on the ground that the same was taken after more than one year - held, given the fact that the assessee had intimated the Revenue about its intention to avail the credit, suppression cannot be alleged - then, it is decided by the Division Bench and also the CBEC manual that the credit cannot be denied to the assessee in such cases - assessee's appeal allowed

[2010-TIOL-180-CESTAT-MAD](#)

Chemplast Sanmar Ltd Vs CCE, Salem (Dated: December 18, 2009)

Service Tax – CENVAT Credit – Eligibility of credit on input services on the basis of debit notes – Enabling provision i.e. Section 37(2) of Central Excise Act only allows for subsequent to completion of manufacturing and for sale of goods cannot be considered as input service used in or in relation to manufacture – Matter remanded to providing credit of service tax paid or payable on taxable services 'used in or in relation to manufacture of excisable goods' – Services which are used by manufacturer original authority to examine eligibility of credit on input services like consignment agents service & selling agents service apart from eligibility of taking credit on debit notes

[Also see analysis of the Order](#)

[2010-TIOL-179-CESTAT-BANG](#)

M/s FCM Travel Solutions (India) Pvt Ltd Vs STC, Mysore (Dated: September 18, 2009)

Service Tax – Appeals – It is settled law that if a stay petition for waiver of pre-deposit of dues is pending before Tribunal, lower authorities should not proceed to recover the dues – Chief Commissioners and Commissioners under jurisdiction of Bangalore Bench to adhere to this law – Since entire amount of Service tax, interest and penalty stands recovered, stay petition is infructuous and dismissed

[2010-TIOL-178-CESTAT-BANG](#)

CCE, Mangalore Vs M/s Dakshina Kannada Mogaveera Mahajana Sangha (Dated: March 31, 2009)

Service Tax – Mandap keeper Service – Eligibility of exemption notification 14/2003-ST for marriage hall located in temple premises – Marriage hall located in a separate building enclosed within an outer wall is regarded as within temple precincts, eligible for exemption under Notification No.14/2003-ST – Impugned order legal and proper

2010-TIOL-175-CESTAT-MAD
M/s Admec Logistics Ltd Vs CCE, Tirunelveli (Dated : September 24, 2009)
Service Tax – Stay/Dispensation of pre-deposit – maintenance and repair service – denial of benefit of exemption under Notification 12/2003 ST – the appellant had not paid any sales tax on the value of material claimed to be used during the course of providing the service – pre-deposit of tax amount ordered.
2010-TIOL-171-CESTAT-BANG
M/s Amet Ltd Vs STC, Mangalore (Dated : June 23, 2009)
Service Tax – Services received from outside India liable to service tax only w.e.f 18.04.2006 – Service tax demand set aside
2010-TIOL-167-CESTAT-BANG
M/s IBM India Pvt Ltd Vs CST, Bangalore (Dated : April 16, 2009)
Service Tax – ERP Implementation Service – ERP Implementation comes under category of Information Technology Service w.e.f. 16.05.2008 – Prior to this date, service was held by the Tribunal as classifiable under the exclusive part of the definition of Consulting Engineer's service – Once a particular service is excluded from the scope of a taxable service where it is normally classifiable then it cannot be taxed under another category – Service tax demand and imposition of penalty for the period prior to 16.05.2008 under the category of Management Consultancy Service set aside
2010-TIOL-166-CESTAT-BANG
CCE, Guntur Vs M/s Integral Construction Company (Dated : September 14, 2009)
Service Tax – Site formation and Clearance Service – Appellant registered separately in Bhopal and Guntur Commissionerates – Authorities at Guntur Commissionerate do not have jurisdiction to issue SCN for recovery of service tax dues in Bhopal Commissionerate when assessee has not opted for centralized registration at Guntur – No infirmity in order of Appellate Commissioner setting aside SCN issued without jurisdiction
2010-TIOL-164-CESTAT-MUM

Mrs Taradevi Bafna Vs CCE, Nashik (Dated : December 10, 2009)

Appellant renting their premises to bank and persisting with them to pay service tax but the same was paid belatedly – upon receipt, tax immediately deposited in treasury – No cause for Penalty in view of s. 80 of Finance Act, 1994 – CESTAT

[Also see analysis of the Order](#)

[2010-TIOL-162-CESTAT-MUM](#)

M/s Semco Electrical Pvt Ltd Vs CCE, Pune (Dated : December 17, 2009)

Rent a cab service, outdoor catering service, air travel booking, telephone/mobile services and steamer agent qualify as "input service" – Refund of un-utilised Cenvat credit admissible – CESTAT

[Also see analysis of the Order](#)

[2010-TIOL-161-CESTAT-BANG](#)

CCE, Guntur Vs M/s Jocil Ltd (Dated : August 12, 2009)

Service Tax – GTA Service – Abatement of 75% available for payment of service tax in terms of [Notification 32/2004-ST](#) – Service tax on GTA service can be discharged utilizing CENVAT Credit A/c – Issues no longer res integra – No reason to interfere with impugned orders

[2010-TIOL-160-CESTAT-BANG](#)

M/s Hindustan Coca-Cola Beverages Pvt Ltd Vs CCE, Hyderabad (Dated : May 1, 2009)

Service Tax – Eligibility of input credit of service tax paid on mediclaim policy, security at depots, vehicle insurance, car rentals, pest control activities – All services which are related to business activity would be entitled for credit – LB decision in GTC Industries = [2008-TIOL-1634-CESTAT-MUM-LB](#) followed

[2010-TIOL-154-CESTAT-BANG](#)

M/s IBM India (P) Ltd Vs CCE, Bangalore (Dated : December 14, 2009)

Service Tax – BAS - Commission Agent in India for foreign client – Export of services – Over Thirty Crores Demand Stayed: Indian entrepreneurs engage foreign agents to canvass orders for their products which are exported against such orders. Such services are taxed when imported; the Indian recipient pays service tax under the reverse charge mechanism. When services are similarly provided to a foreign enterprise by Indian agents, it cannot be held that export of services is not involved. Therefore there is no logic in the view that in the instant case export of marketing services (BAS) was not involved.

[Also see analysis of the Order](#)

[2010-TIOL-153-CESTAT-BANG](#)

M/s ABB Ltd Bangalore Vs CCE, Bangalore (Dated : August 5, 2009)

Service Tax – Recipient of taxable services from outside India not liable to service tax prior to 18.04.2006 – As regards service tax demand after 18.04.2006, since appellant was aware of tax liability on services received from foreign companies during April, 2006 to June, 2006 plea of limitation on the ground of revenue neutrality not acceptable – However, as department was aware of impugned transactions as early as July 2005, extended period of limitation not invocable – Impugned order not sustainable, demand of service tax, interest and penalty, liable to be set aside

[2010-TIOL-147-CESTAT-BANG](#)

Ms Canara Bank Vs CST, Bangalore (Dated : September 11, 2009)

Service Tax – Services received from outside India not taxable in the hands of the recipient prior to 18.04.2006 – Impugned order demanding service tax for the period 16.08.2002 to 31.07.2005 set aside

[2010-TIOL-141-CESTAT-MAD](#)

M/s Saj Flight Services (P) Ltd Vs CST, Chennai (Dated : August 18, 2009)

Service – Outdoor Catering Service – Benefit of [Notification 12/2003 ST](#) in respect of food items supplied on payment of VAT – Matter remanded as the lower authority has not examined the details furnished by the assessee in relation to VAT/ Sales tax.

[2010-TIOL-140-CESTAT-BANG](#)

CCE, Belgaum Vs M/s S V M Nett Project Solutions Pvt Ltd (Dated : July 13, 2009)

Service Tax – Mining Service – Raising of iron ores from mines, processing them to required grade and supplying them to Steel units comes under Mining Service, leviable to tax only from 01.06.2007 – Demand of service tax under BAS and imposition of penalty not sustainable

[2010-TIOL-137-CESTAT-MAD](#)

M/s Shree Suthan Promotors Vs CCE, Trichy (Dated : November 12, 2009)

Service Tax – Penalty – Revision order passed by the Commissioner imposing penalty under Section 78 is set aside as the show cause notice issued by the Commissioner did not allege any one of the five ingredients for imposing penalty under Section 78 – Penalty under Section 76 and 77 upheld, but reduced.

[2010-TIOL-136-CESTAT-MAD](#)

Shri K S Nagarajan Vs CCE, Salem (Dated : November 13, 2009)

Service Tax – refund – limitation – claim returned to the assessee for filing in proper format – for computing the limitation, date of filing the original claim is relevant – rejection of claim as time barred based on the date of filing the revised claim is not correct – matter remanded to decide the case on merits.

[2010-TIOL-124-CESTAT-AHM](#)

M/s Jaihind Projects Ltd Vs CST, Ahmedabad (Dated : January 5, 2010)

Service Tax - Valuation - Commercial Construction Service - if the value of pipes supplied by the service recipient is not included in the gross amount for the purpose of abatement under Notification 15/2004 ST, the benefit of Notification is not admissible - Section 67 of the Finance Act, 1994 read with the Service Tax (Determination of value) Rule 2006 - the objective of the explanation to Notification 15/2004 ST is to bring parity among all the service providers providing such services.

Limitation - The matter in this case is of interpretation of law and the appellants cannot be found fault with for entertaining a view that value of pipes need not be included and claiming on the basis that they are eligible for exemption- Matter remanded to revise the demand to normal period and to provide an opportunity to the appellant to exercise their option to pay service tax as per exemption notification or as per any other relevant provisions/notification applicable to them.

[Also see analysis of the Order](#)

[2010-TIOL-123-CESTAT-AHM](#)

M/s Pushpan Travels Vs CST, Ahmedabad (Dated : October 30, 2009)

ST - Rent-a-Cab Service - Assessee is an individual - buys a cab on loan - Revenue raises demand and imposed penalty - as soon as tax liability is pointed out, the assessee pays the tax with interest - pleads invocation of Sec 80 - held, since the assessee owns a single cab and is not a very literate person and the fact that he paid tax on being pointed out, it may be inferred that he had no intention to evade tax - a fit case for invocation of Sec 80 - Assessee's appeal allowed

[2010-TIOL-122-CESTAT-BANG](#)

M/s Lakshminarayana Mining Company Vs CST, Bangalore (Dated : September 25, 2009)

Service Tax – GTA Service – Service tax liable to be paid only when service is received from GTA and not truck owners or transporters – Legislative intent is not to tax truck owners or truck operators – In the absence of a finding that appellants had received service of transport of goods from any GTA demand of service tax and penalties liable to be set aside

[Also see analysis of the Order](#)

[2010-TIOL-121-CESTAT-BANG](#)

CCE, Cochin Vs M/s Avenue Regent (Dated : June 15, 2009)

Service Tax – Convention Service & Mandap Keeper Service – Hotel registered as Mandap Keeper eligible for benefit of Notification 12/01-ST – Authorities attempt to reclassify services under category of Convention Service not correct when returns are submitted periodically and classification/claim of exemption notification within knowledge of authorities – Extended period of limitation not invocable – Board Circular dated 07.01.2002 being not beneficial to assessee applicable prospectively in terms of Apex Court judgment in Suchitra components Ltd [2007-TIOL-09-SC-CX](#) – Impugned order being correct and legal, upheld

[2010-TIOL-120-CESTAT-DEL](#)

M/s Vishal Traders Vs CCE, Jaipur-I (Dated : November 3, 2009)

ST - Cargo Handling Service - assessee enters into contract for loading and stacking job - Revenue raises demand - assessee pleads it is not cargo handling service - held, in view of Tribunal's decisions, it is very much cargo handling service but extended period cannot be invoked as there was some confusion during the initial period - matter remanded for quantifying demand for normal limitation period

2010-TIOL-113-CESTAT-BANG
M/s Venpakal Advertisers Vs CCE, Cochin (Dated : May 22, 2009)
Service Tax – Advertising Agency service – Agreement with KSRTC for right to sell space for display boards, signages etc – Contentions raised by appellants not examined in detail by adjudicating authority – Matter remanded for de novo adjudication with a direction to pass a speaking order
2010-TIOL-112-CESTAT-DEL
M/s Insulators And Electricals Company Vs CCE, Bhopal (Dated : October 14, 2009)
Cenvat credit on the service tax paid on GTA service – No allegation in the show-cause notice that the goods were not supplied at the customer's place – Credit available in view of Larger Bench decision in ABB Ltd. Vs. Commissioner of C. Ex. & ST Bangalore (2009-TIOL-830-CESTAT-BANG-LB) & P&H High Court decision in Ambuja Cements Ltd. Vs. Union of India - Appeal allowed with consequential relief.
2010-TIOL-111-CESTAT-DEL
M/s Diamond Cable Network Vs CCE, Jaipur (Dated : September 30, 2009)
ST - Penalty - Assessee is a small time cable operator - demand confirmed and penalty under Sections 76, 77 and 78 imposed - Assessee deposits the tax with interest and seeks invocation of Sec 80 - held, since the assessee was a registered entity and was paying tax, there is no justification for not paying tax - however, since there is no suppression, separate penalty under Sec 78 is not required - penalty under Sec 76 reduced - Assessee's appeal allowed
2010-TIOL-110-CESTAT-MUM
M/s A B Projects Pvt Ltd Vs CCE, Nagpur (Dated : December 8, 2009)
Service Tax - Construction of godowns at Railway yard for Central Warehousing Corporation which in turn lets out the same for commercial purpose is taxable under Commercial & Industrial Building Construction services - CESTAT
Also see analysis of the Order

[2010-TIOL-109-CESTAT-BANG](#)

CCE, Cochin Vs M/s Casino Hotel (Dated : June 15, 2009)

Service Tax – Convention Service & Mandap Keeper Service – Hotel registered as Mandap Keeper eligible for benefit of Notification 12/01-ST – Authorities' attempt to reclassify services under category of Convention Service not correct when returns are submitted periodically and classification/claim of exemption notification within knowledge of authorities – Extended period of limitation not invocable – Board Circular dated 07.01.2002 being not beneficial to assessee applicable prospectively in terms of Apex Court judgment in Suchitra components Ltd [2007-TIOL-09-SC-CX](#) – Impugned order being correct and legal, upheld

[2010-TIOL-108-CESTAT-AHM](#)

M/s Cosmos Detective & Security Services Vs CCE, Ahmedabad (Dated : December 22, 2009)

Service Tax - Valuation - non-inclusion of TDS, contribution to PF and ESI - penalty - since the issue involved is a pure question of interpretation, it is fit case for waiver of penalty under Section 80 of the Finance Act, 1994.

[2010-TIOL-107-CESTAT-DEL](#)

CCE, Lucknow Vs M/s P N Construction (Dated : October 1, 2009)

Anomaly in calculating the number of days of delay in payment of service tax i.e. one for charging the interest and another for imposition of penalty – Appellant paid service tax in two parts before issuance of SCN – Penalty rightly held liable to be paid for delay of 142 days only and accordingly reduced – no infirmity in order of Commr(A) – Revenue appeal rejected.

[2010-TIOL-99-CESTAT-AHM](#)

CST, Ahmedabad Vs M/s Purnima Advertising & Promotion Pvt Ltd (Dated : November 6, 2009)

Service Tax - Advertising Service - refund - the service provided by the appellants is only in respect of booking the space or time and is taxable under Business Auxiliary Service, but not under Advertising Agency service - the assessee paid service tax on the gross amount without considering the discount of 12% offered by the client - the assessee is entitled for refund of the excess amount paid - claim for the period beyond 25.1.2004 is hit by limitation under Section 11 B.

Unjust enrichment - the issue of credit note is sufficient for claiming the refund from the department.

[2010-TIOL-95-CESTAT-DEL](#)

CCE, Kanpur Vs M/s Vishal Cable Network (Dated : October 20, 2009)

Service Tax - Penalty - Cable operator service - irregular availment of CENVAT Credit by the MSO of the amount paid by the subscriber cable operator - no reason to interfere with the Commissioner (Appeals) order vacating the penalties by invoking Section 80 of the Finance Act, 1994.

[2010-TIOL-94-CESTAT-MAD](#)

M/s Kannappa Corpn Vs CCE, Trichy (Dated : October 9, 2009)

Service Tax – Cargo handling Service – If someone hires labour for loading/unloading of goods in their individual capacity, he will not be liable to service tax as cargo handling agent.

[2010-TIOL-89-CESTAT-AHM](#)

M/s Sahjanand Tours & Travels Vs CST, Ahmedabad (Dated : November 9, 2009)

Service Tax – Tour operator service – Tax liability under tour operator service to be decided at the time of final hearing – Since issue is arguable and stay was granted on similar issue in case of appellants sister concern, full waiver of pre-deposit ordered and stay granted

[2010-TIOL-88-CESTAT-BANG](#)

South Paw Security And Mantech Services Vs CCE, Cochin (Dated : May 1, 2009)

Appellants provided security services to M/s BSNL - sole reason behind the delay in payment of service tax has been the extraordinary delay in payment of their security bills by M/s BSNL, Ernakulam who withheld payments over a sustained period of 4 1/2 years - appellant also had to pay a huge amount of interest - appellant's company is run by a retired defence officer – Penalty set aside in exercise of powers conferred under Section 80 of the Finance Act – CESTAT

[2010-TIOL-85-CESTAT-MUM](#)

Parason Machinery (India) Pvt Ltd Vs CCE, Aurangabad (Dated : October 30, 2009)

Photography Services, Air Travel Agent & Tourist Taxi Services are not Input Services – CESTAT dismisses ROM application by saying that if the appellant is aggrieved the only remedy is to file a statutory appeal and not by a ROM application.

[Also see analysis of the Order](#)

[2010-TIOL-84-CESTAT-MAD](#)

S Rajendran Vs CCE, Salem (Dated : October 5, 2009)

Service Tax – Rent-a-cab Operator service – there is no material on record to establish suppression on the part of the assessee – demand barred by limitation.

[2010-TIOL-83-CESTAT-MAD](#)

The Tamilnadu Cricket Association Vs CST, Chennai (Dated : October 20, 2009)

Service Tax – Stay/Dispensation of pre-deposit – Sale of space and time for Instadia Advertisement – no prima facie case has been made out for waiver of pre-deposit.

[2010-TIOL-75-CESTAT-AHM](#)

M/s Geotechnical Engg Research Laboratory Vs CCE, Ahmedabad (Dated : December 22, 2009)

Service Tax - penalty - the appellants on their own obtained registration and paid the service tax for the earlier period also along with interest, without claiming any limitation - no case for imposing penalty as the proceedings should have been treated as concluded after confirmation of service tax and interest by the appellant voluntarily or alternatively, benefit of Section 80 should have been extended.

[2010-TIOL-74-CESTAT-MAD](#)

M/s Ravi Paints & Chemicals Vs CST, Chennai (Dated : October 7, 2009)

Service Tax – Consulting Engineer Service - Any testing service like noticing of defects and requirement of pointing out that the defect has to be set right cannot be held by any stretch of imagination to be advice or consultancy and would not come under the purview of consulting engineer service.

2010-TIOL-73-CESTAT-MAD
M/s ABT Ltd Vs CST, Chennai (Dated : October 7, 2009)
Service Tax – Clearing and Forwarding Agent service – the appellant is not clearing the goods from the premises of the manufacturer – demand of service tax under C&F Agent Service is not sustainable as held by the P&H High Court in Kulcip Medicines (P) Ltd case.
2010-TIOL-68-CESTAT-MAD
M/s Switzer Instruments Ltd Vs CST, Chennai (Dated : September 17, 2009)
Service Tax – Consulting Engineer Service vis-à-vis Intellectual property service – payment of Running Royalty is taxable as Intellectual property service only from 10/9/04.
2010-TIOL-67-CESTAT-BANG
M/s Louis Berger International Inc Vs CCE, Hyderabad (Dated : March 16, 2009)
Service Tax – Consulting Engineer's service – Reimbursement expenses collected from clients not includible in value of taxable service and service tax not liable to be paid on reimbursement expenses – Impugned order not legal and correct, liable to be set aside
2010-TIOL-66-CESTAT-MAD
M/s Ocen Interiors Pvt Ltd Vs CST, Chennai (Dated : September 14, 2009)
Service Tax – Stay/Dispensation of pre-deposit – Commercial construction vis-à-vis works contract service – the appellants have discharged service tax under works contract – prima facie case for waiver of pre-deposit.
2010-TIOL-59-CESTAT-AHM
M/s Cadila Healthcare Ltd Vs CCE, Ahmedabad (Dated : August 3, 2009)

Service Tax – Technical testing and analysis service, C & F Agent service, Courier service and Commission paid to foreign agents are input services, credit available – Impugned order set aside

[2010-TIOL-58-CESTAT-MAD](#)

M/s The Lakshmi Mills Co Ltd Vs CCE, Tirunelveli (Dated : September 18, 2009)

Service Tax – Business Auxiliary Service – commission paid to the overseas agent for procurement of export orders – no service tax is payable by the recipient in India prior to 18.04.2006.

[2010-TIOL-57-CESTAT-BANG](#)

M/s Tribhuvan Motors Ltd Vs CST, Mangalore (Dated : May 13, 2009)

Service Tax – Business Auxiliary Service – Payments received from financial institutions by authorized dealers of motor vehicles for counter/table space provided for business – Nothing on record to indicate that appellant promoted services provided by various financial institutions – Not liable to service tax under BAS – Impugned order liable to be set aside

[2010-TIOL-56-CESTAT-BANG](#)

M/s LSG Sky Chefs (India) Pvt Ltd Vs CC, CCE & ST, Hyderabad (Dated : August 31, 2009)

Service Tax - Outdoor Catering Service - Eligibility of Exemption Notification 12/03-ST for supply of food - When sales tax is paid on supply of food, service tax cannot be levied simultaneously as they are mutually exclusive - Impugned order not sustainable

[2010-TIOL-52-CESTAT-DEL](#)

M/s Rane Enterprises Vs CCE, Meerut (Dated : September 14, 2009)

Service Tax – After sales service – Adjudication order does not give reasons for levying tax under BAS when terms of agreement reveal it to be a franchise arrangement – Appellant also entitled for benefit of Notification 6/2005-ST as small service provider – Impugned order liable to be set aside

[2010-TIOL-51-CESTAT-DEL](#)

CCE, Lucknow Vs M/s Sharda Steel Industries Ltd (Dated : September 24, 2009)

Service Tax – GTA Service – Non-payment of service tax on the ground that matter was *sub judice* – Matter decided by High Court against appellant in August 2005 but tax liability discharged only in March 2006 – Waiver of penalty to be granted under s. 80 only when there is sufficient cause – Provisions of s. 76 attracted whenever there is non-payment of service tax by due date – Penalty of Rs. 100/- per day levied to meet the ends of justice

[2010-TIOL-49-CESTAT-MAD](#)

M/s Indusind Bank Ltd Vs CST, Chennai (Dated : September 22, 2009)

Service Tax – Stay/Dispensation of pre-deposit – Banking and Financial Service – pre-closure charges cannot be prima facie equated with interest payment – pre-deposit of 85 lakhs ordered.

[2010-TIOL-48-CESTAT-BANG](#)

M/s Hindustan Coca-Cola Beverages (P) Ltd Vs CCE, Hyderabad (Dated : June 11, 2009)

Service Tax – ‘Outdoor caterer service’ provided in canteen of manufacturer and ‘Rent-a-cab service’ are input services – Service tax paid thereon available as CENVAT Credit – Issue no longer res integra – Impugned order unsustainable, liable to be set aside

[2010-TIOL-46-CESTAT-MUM](#)

Lupin Ltd Vs CCE, Large Taxpayer Unit (Dated : September 9, 2009)

Cenvat Credit – BAS (Export Commission) – there seems to be a nexus between clearance of the finished goods and payment of export commission - prima facie satisfies definition of input service – CESTAT

[Also see analysis of the Order](#)

[2010-TIOL-41-CESTAT-MUM](#)

M/s Rubicon Formulations Pvt Ltd Vs CCE, Aurangabad (Dated : November 23, 2009)

Production of goods containing alcohol and discharging State Excise duty – CESTAT while granting Stay ordering for pre-deposit – later, in another case of same appellant setting aside order of lower authority by holding activity not liable to Service Tax under head BAS – Appellant files Modification applications – CESTAT dismisses the same as infructuous and also sets aside demand.

[Also see analysis of the Order](#)

[2010-TIOL-40-CESTAT-MUM](#)

Sempertrans Nirlon Pvt Ltd Vs CCE, Raigad (Dated : July 24, 2009)

Sale of final product on door delivery basis and prices inclusive of freight and insurance borne by assessee - Cenvat credit in respect of outward goods transport services claimed on basis of Larger Bench decision in ABB Ltd Vs CCE, Banglore, [[2009-TIOL-830-CESTAT-BANG-LB](#)] and Ambuja Cement Ltd. Vs UOI [[2009-TIOL-110-HC-P&H-ST](#)] - High Court in Ambuja Cement Ltd. upheld Board's circular dt. 23.8.2007 for fulfillment of conditions laid down therein before allowing credit – Case remanded to original authority for fresh decision.

[2010-TIOL-39-CESTAT-DEL](#)

M/s Thakur Tours & Travels Vs CCE, Noida (Dated : October 26, 2009)

Revenue suo motu revised adjudication order and imposed penalty under sections 76 and 78 of Finance Act, 1994 - Appellant is entitled to fair opportunity of hearing and the adjudicating authority is required to pass a reasoned and speaking order taking into consideration the allegation in the SCN which was foundation for the original proceeding proposing consequence of penalty and the averments of the appellant as well as the law of the land – Matter remanded.

[2010-TIOL-38-CESTAT-MAD](#)

V N S S Textiles Vs CCE, Madurai (Dated : October 5, 2009)

Service Tax – Clearing and forwarding Agent Service – the goods are already cleared by the principal and the same are received by appellant who stores the same and dispatches to the clients – the activity is not covered under Clearing and Forwarding Service as held by the High Court of Punjab and Haryana in case of M/s Kulcip Medicines.

[2010-TIOL-32-CESTAT-DEL](#)

M/s Life Insurance Corpn Of India Vs CCE, Jaipur (Dated : October 20, 2009)

Service Tax – Insurance service – Adjudicating authority to verify if service tax liability is discharged by assessee in the jurisdiction of its centralized registration office and proceed according to law – Impugned orders set aside and matter remanded

[2010-TIOL-31-CESTAT-DEL](#)

M/s Ria Construction Ltd Vs CCE, Panchkula (Dated : October 12, 2009)

Applicant was a proprietorship firm which was transferred to Limited company from 1.8.2005 – Applicant pleading that they had no knowledge that the limited company is liable to file return every month instead of half-yearly return as filed – Tax paid for period September 2005 to March 2006 in March 2006 - Penalty imposed – no prima facie case for waiver of pre-deposit of penalty – Pre-deposit ordered.

[2010-TIOL-28-CESTAT-BANG](#)

M/s Puravankara Projects Ltd Vs CST, Bangalore (Dated : August 4, 2009)

Service Tax – Works contract service – Activity of construction of complexes through works contracts brought into tax net only from 01.06.2007, activity forming part of works contract could not have been separated and taxed under a pre-existing category for the period prior to 1/6/2007

Service Tax – Ancillary activity forming part of main activity carried out under works contract cannot be subjected to service tax – Gym constructed for use of flat owners not liable to service tax under health and fitness service as the facility is owned by flat owners – Charges collected from flat owners for transfer of ownership as part of construction agreement for purchase of flats not taxable under separate category of real estate agents service – Reimbursable amounts collected for maintenance of flats till ownership is transferred to association of owners not taxable under maintenance & repair service

Service Tax– Construction of flats and transferring them to land owners who are co-developers in exchange for land received from them cannot be held to be any service – Consideration received in the form of right on land transferred to them cannot be held as exempted service

Service Tax – Restricting utilization of CENVAT Credit to 20% by invoking provisions of Rule 6(3) not sustainable – Complete waiver of pre-deposit of service tax and penalty ordered

[Also see analysis of the Order](#)

[2010-TIOL-27-CESTAT-MUM](#)

M/s ISMT Ltd Vs CCE & CC, Aurangabad (Dated : December 17, 2009)

Garden Maintenance services – Apex Court in Maruti Suzuki [[2009-TIOL-94-SC-CX](#)] has only considered the word 'input' and there is no finding with regard to 'input service' - A good garden creates a better atmosphere and environment which increases the working efficiency – Cenvat Credit available – CESTAT.

[Also see analysis of the Order](#)

[2010-TIOL-26-CESTAT-DEL](#)

M/s Wazir Singh Swaran Singh Vs CCE, Jalandhar (Dated : November 11, 2009)

Service Tax - refund - limitation - service tax deposited during investigation and refund claim filed after favourable order - claim not hit by limitation as show cause notice itself treated the amount paid as deposit - The amount deposited if appropriated by the order of the original authority then only on that day, it can be treated as having been paid - refund not hit by limitation - Commissioner's revision order is set aside.

[2010-TIOL-21-CESTAT-MUM](#)

M/s Wasp Pumps Pvt Ltd Vs CCE, Mumbai (Dated : October 15, 2009)

Delay in payment of duty and late filing of E.R.1 returns leading to demand for duty, interest and penalty - Duty admitted and paid but challenge to payment of interest @ Rs.1000/- per day by relying on judgement in Lucid Colloids Limited vs UOI [2006-TIOL-250-HC-Raj-CX](#) which struck down interest provision of Rs.1000/- per day - Plea also made for reduction of penalty on financial grounds - Ratio of judgement of Rajasthan High Court (supra) applicable and interest is payable as prescribed under Section 11AB of the Act - Considering facts of the case, penalty of Rs.30,000/- under Rule 25 reduced to Rs.10,000/- - Penalty imposed under Rule 27 set aside as being beyond the scope of show cause notice

[2010-TIOL-16-CESTAT-DEL](#)

CCE, Ludhiana Vs M/s Akash Cable (Dated : November 13, 2009)

Service Tax – Cable operator service – Service tax paid before issue of SCN, interest amount paid and penalty of 25% also paid within one month of date of order of original authority – Waiver of penalty under s. 76 and penalty in excess of 25% under s. 78 justified – No reason to interfere with order of lower appellate authority

[2010-TIOL-15-CESTAT-DEL](#)

M/s Lilason Breveries Ltd Vs CCE, Bhopal (Dated : September 10, 2009)

Service Tax – GTA service – No liability on appellants when service tax is already paid by GTA himself

Service Tax – Adjustment of tax – Rule 6(3) of STR does not provide for adjustment of excess tax paid in the subsequent period towards short payment during earlier period – Penalty not leviable as issues involved interpretation of law

[2010-TIOL-14-CESTAT-AHM](#)

M/s Shree Dharmabhakti Travels Vs CCE, Rajkot (Dated : November 14, 2009)

Service Tax - Stay/Dispensation of pre-deposit - Rent-a-Cab operator service - supply of cabs to BSNL - whether taxable under Rent-a-Cab operator service - pre-deposit of 25% of the service tax demanded ordered as the matter is arguable.

[2010-TIOL-12-CESTAT-AHM](#)

M/s Polad Traders Pvt Ltd Vs CST, Ahmedabad (Dated : December 2, 2009)

ST - C&F Agent Service, franchisee service and BAS - Assessee submits it acts as C&F Service and certain expenses should be like electricity charges, salary and telephone charges are reimbursed and the same is not taxable - assessee also sells Salt of M/s Tata Chemicals and earns incentive - Revenue for tax under BAS - assessee argues it is an incentive for sale and not sales promotion - held, the assessee has prima facie made a strong case for waiver of pre-deposit

[2010-TIOL-07-CESTAT-BANG](#)

M/s Sri Sai Krishna Travels Vs CCE, Visakhapatnam (Dated : September 8, 2009)

Service Tax – Providing own vehicles or vehicles procured from others with driver and fuel and collecting charges on per km basis not rent-a-cab service – CESTAT decision in R. S. Travels [2008-TIOL-1311-CESTAT-DEL](#) followed – Impugned order set aside

[2010-TIOL-03-CESTAT-MAD](#)

M/s Visranthi Builders Vs CCE, Trichy (Dated : September 10, 2009)

Service Tax – penalty – once the adjudicating authority held that the assessee was guilty of suppression, penalty is automatically attracted – Commissioner’s revision order imposing penalties under Sections 76,77 and 78 of the Finance Act, 1994 upheld.

[2010-TIOL-02-CESTAT-DEL](#)

Shri Daulat Ram Vs CCE, Indore (Dated : October 13, 2009)

Levy of man-power recruitment and supply of agency was introduced on 16.6.05 - appellant is an individual person and supplied man-power to the limited company - as soon as it has come to the knowledge of the appellant, he has paid the tax along with interest - original authority rightly invoked Section 80 of the Finance Act, 1994 and dropped penalty - CESTAT - Appeal allowed.

[2010-TIOL-01-CESTAT-DEL](#)

M/s BSBK Pvt Ltd Vs CCE, Raipur (Dated : October 30, 2009)

Appellants undertaking turn key projects - in terms of the contract with the steel plants, they provide three separate services namely, Consulting Engineer Service, Commercial & Industrial Construction Service and Erection, Commissioning or Installation Service - credit availed of input services falling the Consulting Engineer Service - Commissioner holding that the appellants are not eligible for the benefit of Notification No.1/06-ST dated 1.3.06 appears cryptic and does not deal with all the issues adequately with reference to the various submissions made by the appellants - Matter remanded by CESTAT.