

CESTAT RULING

[2010-TIOL-892-CESTAT-MAD](#)

Inox Air Products Ltd Vs CCE, Chennai (Dated: May 13, 2010)

Cenvat on GTA outward freight – Matter to be resolved after Karnataka High Court decision: taking into consideration submissions from both sides, and with the consent of both sides, the Registry is directed to list this appeal after the /decision of the Hon'ble High Court of Karnataka is available on Department's appeal in M/s. ABB Ltd. (supra). Both sides will also be at liberty to make a mention before the Bench as and when they come to know of the decision of the said High Court in the case of M/s. ABB Ltd.

[Also see analysis of the Order](#)

[2010-TIOL-891-CESTAT-MAD](#)

Ruth Shipping Agencies Private Ltd Vs CCE, Thirunelveli (Dated: March 25, 2010)

Service tax – Business Auxiliary Service – commission received by CHA from Steamer Agent for arranging containers for exporters – Since the commission was received from secondary service which ultimately merged with the services that are exported, no service tax would be leviable.

[2010-TIOL-873-CESTAT-MUM](#)

Bharat Heavy Electricals Ltd Vs CC & CCE, Nagpur (Dated: May 28, 2010)

Service Tax - Notifications are not assessee specific - Each and every service of commercial or industrial construction provided by the assessee has to be examined for the purpose of extending the facility in terms of Notification No.15/2004-ST, 01/2006-ST – Stay granted

[Also see analysis of the Order](#)

[2010-TIOL-872-CESTAT-BANG](#)

M/s Balaji Mines & Minerals Ltd Vs CCE, Belgaum (Dated: March 8, 2010)

Service Tax – Activities of surveying, drilling, blasting excavation and raising iron ore, transporting them for sorting into iron ore lumps and iron ore fines, crushing, grading etc are prima facie 'mining of mineral, oil or gas service' – Liable for service tax only from 01.06.2007 – Site formation work only incidental to mining activity, contract cannot be vivisected to levy tax under 'site formation and clearance service' – Prima facie case for waiver of pre-deposit – Stay granted

[2010-TIOL-868-CESTAT-MUM](#)

CST, Mumbai Vs Mr Ian Christopher Crosby (Dated: June 8, 2010)

Revenue has no cogent evidence to contradict findings of appellate authority – Appeals dismissed

[Also see analysis of the Order](#)

[2010-TIOL-867-CESTAT-MAD](#)

Joe Transport Vs CCE, Trichy (Dated: February 9, 2010)

Service Tax – Immunity under Section 73(3) of the Finance Act, 1994 from penalty – the appellants paid only part of the tax before issue of the show cause notice and the remaining amounts during the adjudication proceedings – Interest amount is still due – benefit of Section 73(3) cannot be allowed – However, penalty under Section 78 set aside and penalty under Section 76 sustained.

[2010-TIOL-865-CESTAT-MAD](#)

M/s Sun Foundations Vs CCE & ST, Trichy (Dated: March 17, 2010)

Service Tax – Construction of complex service – plea that the service rendered is taxable as works contract service only with effect from 1.6.2007 was not raised before the authorities below – since it is a legal plea based on a case law, matter remanded for a fresh decision.

[2010-TIOL-863-CESTAT-MAD](#)

CCE, Chennai Vs Sundaram Brake Linings Ltd (Dated: June 18, 2010)

Central Excise and ST - Outdoor Catering Service, not input service, not eligible for credit – When biscuits are not eligible for credit, how can activity of supplying biscuits be eligible?

[Also see analysis of the Order](#)

[2010-TIOL-854-CESTAT-DEL](#)

M/s Jetlite (India) Ltd Vs CCE, New Delhi (Dated: June 25, 2010)

Service Tax – BAS – Promoting real estate business in the air – Jetlite directed to pre-deposit Rs. 100 Crores - Law is well settled that the levy and collection of tax is regulated by law and not by contract - Law is well settled that the levy and collection of tax is regulated by law and not by contract. The term "service" generally means service of any description which is made available to potential user and includes the provision of facilities. Such term has variety of meanings. It may mean any benefit or any act resulting in promoting or serving interest of the recipient. It may be contractual, professional, public, domestic, legal, and statutory etc. How it should be understood and what it means depends in the context in which it has been used in an enactment. The nature of service provided by the Appellant appears to have fallen in the description of "taxable service" and in this case to the class of "Business Auxiliary" service category. Nomenclature also is not decisive on exigibility to tax when taxable event had occurred.

[Also see analysis of the Order](#)

[2010-TIOL-853-CESTAT-MUM](#)

Premier Agencies Vs CCE, Nagpur (Dated: February 10, 2010)

Appellants have paid Service Tax on their own and on finding that they are not liable to pay the Service Tax, they filed a refund claim – lower authorities rejecting claim by citing Apex Court decision in Flock (India) Pvt. Ltd. ([2002-TIOL-208-SC-CX](#)) and Priya Blue Industries Ltd. ([2004-TIOL-78-SC-CUS](#)) - as there was neither assessment made by the Central Excise officer, nor any decision taken by the Central Excise officer, the question of challenging the assessment does not arise at all - appellants cannot file any appeal against their own assessment – CESTAT decision in Nagpur Transwell Power Pvt. Ltd. Vs. Commissioner of Central Excise, Nagpur - ([2009-TIOL-1392-CESTAT-MUM](#)) , relied upon - Appeal allowed.

[2010-TIOL-849-CESTAT-AHM](#)

M/s Nest Telecom Vs CCE, Ahmedabad (Dated: May 21, 2010)

Appellant distributing the products of M/s. Facsel Limited – BAS - whether commission agent or distributor - service tax deposited after matter pointed out by Revenue – penalties imposed - unfair to deny exemption under notification 13/2003-ST if the appellant is entitled to it as claim made for the first time – matter remanded.

[2010-TIOL-847-CESTAT-AHM](#)

M/s J K Industries Vs CST, Ahmedabad (Dated: May 21, 2010)

Appellant is a small time partnership firm engaged as a consignment agent of M/s. Hindalco - even though they took registration in the year 1999, they were not paying service tax till March 2004 and paid the same only after the departmental officers visited the premises and recorded statements - correspondence between the appellant and the principal regarding the payment of service tax also supports the case of the appellant that there was no intention to evade duty and in fact they were making efforts to get the money from the principal without realizing the consequences of non payment during such efforts – penalties imposed under Section 75, 76, 77 and 78 of Finance Act, 1994 set aside.

[2010-TIOL-841-CESTAT-BANG](#)

Balaji Mines & Minerals Ltd Vs CCE, Belgaum (Dated: March 8, 2010)

Service Tax – Activities of surveying, drilling, blasting excavation and raising iron ore, transporting them for sorting into iron ore lumps and iron ore fines, crushing, grading etc are prima facie 'mining of mineral, oil or gas service' – Liable for service tax only from 01.06.2007 – Site formation work only incidental to mining activity, contract cannot be vivisected to levy tax under 'site formation and clearance service' – Prima facie case for waiver of pre-deposit – Stay granted

[2010-TIOL-837-CESTAT-BANG](#)

Central Studio & Colour Lab Vs Vs CCE, Calicut (Dated: February 9, 2010)

Service Tax – Valuation – In Civil Appeal filed by Revenue Apex Court held that cost of material used has to be deducted for arriving at gross value for levy of service tax – Appellant having not maintained separate accounts for ascertaining material value, matter remanded to original authority for verification and ascertainment of gross value after deduction if any – Order-in-Original set aside

[2010-TIOL-835-CESTAT-MAD](#)

Ms Future Focus Infotech India (P) Ltd Vs CST, Chennai (Dated: March 3, 2010)

Service Tax - Manpower recruitment and supply service - deputing supply of employees of the appellants to Infosys and TCS to perform the services specified under the contracts is taxable under Manpower recruitment or supply service.

There is no evidence produced to indicate that any of the software projects undertaken by TCS and Infosys from their respective clients has been sub-contracted to the appellants or that the appellants are working on any such project on their own. The appellants have deputed skilled personnel including computer engineers to work

under the supervision and control of TCS and Infosys personnel in-charge of projects undertaken by TCS and Infosys. The appellants are getting paid in terms of the man hours for the persons deputed to work under the control and supervision of TCS and Infosys.

Though there are clauses relating to deliverables and quality of work in the contracts but these by themselves do not indicate that the appellants are providing information technology software services to TCS and Infosys. Any person or organization obtaining skilled personnel has to ensure that such men deliver work of standard quality. No one would employ a person who is not skilled enough and no one would pay for shoddy work even if done by a skilled man. TCS and Infosys are merely seeking to obtain personnel from the appellants with necessary skill who will work diligently on the projects undertaken by TCS and Infosys.

Penalty - no separate penalty under Section 78 is warranted specially keeping in view the fact that penalties under Section 76 and Section 78 have been made mutually exclusive by amendment of the law.

Also see analysis of the Order

[2010-TIOL-834-CESTAT-AHM](#)

CCE, Ahmedabad Vs M/s Ramdev Food Products Pvt Ltd (Dated: May 13, 2010)

Respondent utilized port services for exporting goods and claimed refund – lower authority rejecting claim on the ground that port services were rendered by the service provider who was not authorized by the port – requirement advanced by Revenue are not specified in any of the CCR, 2004 – Commr(A) sanctioning refund prima facie proper in law – stay petition of Revenue rejected.

[2010-TIOL-830-CESTAT-BANG](#)

M/s Spandrel Vs CCE, Hyderabad/Kochi (Dated: May 6, 2010)

Service Tax - interior works such as pest control, demolition & dismantling, masonry work, wall preparation – now taxed under 'Commercial or industrial construction service', cannot be taxed under 'Interior Decorator Service' during the earlier period: definition of 'interior decorator service' clearly envisages advice, consultancy and technical assistance and also planning and design and nowhere includes execution of work to be done as would fall under the category of 'interior decorator service'. In a series of decisions of the Tribunal which laid down law that if the category of services is brought into service tax net from a specific date, such services would not be covered under any other category of services.

Held: The activities of the appellant during relevant period will not be covered under definition of 'interior decorator services

[Also see analysis of the Order](#)

[2010-TIOL-829-CESTAT-KOL](#)

M/s Dewanchand Ramsaran Corporation Vs CCE & CC, Dibrugarh (Dated: February 15, 2010)

Contract entered with M/s ONGC for giving crane on hire – service tax demanded by classifying services under BAS - appellants contention is that it is from 16.05.2008 that supply of tangible goods comes under purview of BAS – period involved is 2003 to 2006 – Prima facie strong case in favour – Pre-deposit waived and recovery stayed

[2010-TIOL-828-CESTAT-BANG](#)

CCE, Guntur Vs M/s CCL Products (India) Ltd (Dated: February 5, 2010)

Service Tax – Service tax paid on GTA service utilized for transport of plastic pallets to raw material suppliers eligible as input credit – Activity covered by 'activities relating to business' in 'Input service' definition in Rule 2(l) of CENVAT Credit Rules, 2004 – No merit in Revenue appeal

[2010-TIOL-825-CESTAT-AHM](#)

M/s Gujarat Intelligence Security Vs CCE, Vadodara (Dated: May 7, 2010)

Service Tax - Security Agency - staff salary and other infrastructural expenses are not required to be added in the assessable value of services in view of Tribunal decisions in Malabar Management Services Pvt. Ltd. ([2007-TIOL-1949-CESTAT-BANG](#)) S. Jayashree ([2007-TIOL-486-CESTAT-BANG](#)) - appellant not challenging duty liability – being a pure question of interpretation of law and the figures having been reflected in the balance sheet, no malafide can be attributed to the appellant so as to invoke penal provisions

[2010-TIOL-817-CESTAT-BANG](#)

M/s Brakes India Ltd Vs CCE, Mysore (Dated: January 22, 2010)

Service Tax – Eligibility of CENVAT Credit of service tax paid on 'manpower supply service' by manufacturer of rubber seals, case bottom etc for maintenance of gardens – Gardens maintained as a statutory requirement in terms of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution Act, 1981 – KSPCB permission to operate industrial plant subject to this condition – There being a statutory requirement of maintaining a garden, by using treated industrial and domestic sewage water, credit not deniable – Impugned order denying credit not sustainable, liable to be set aside

[2010-TIOL-816-CESTAT-BANG](#)

M/s Hewlett Packard India Sales Pvt Ltd Vs CCE, Bangalore (Dated: February 15, 2010)

Service Tax – Activity of providing ‘Managed Services’ and ‘Consulting Integration Service’ – Appellants claim that this would be covered under IT Service w.e.f 16.05.2008 to be analyzed in detail – Amount of Rs. 18.12 crores deposited out of Rs. 76 crores demand of tax and penalty sufficient to grant stay – Pre-deposit of balance amounts waived and stay granted

[2010-TIOL-814-CESTAT-MUM](#)

L G Marwadi Vs CCE, Pune (Dated: May 18, 2010)

Service Tax paid and later exemption claimed under SSI notification 6/2005 (ST) – no cause of refund in view of clause 2(i) of the notification

[Also see analysis of the Order](#)

[2010-TIOL-813-CESTAT-BANG](#)

CCE & CC, Guntur Vs M/s Hindustan Coca-Cola Beverages Pvt Ltd (Dated: January 15, 2010)

Service Tax – Security agency service and pest control service are input services used in relation to assessee's business activities – Service tax paid thereon available as CENVAT credit

[2010-TIOL-809-CESTAT-BANG](#)

M/s Sun Micro Systems (I) Pvt Ltd Vs CCE, Bangalore (Dated: February 15, 2010)

Service Tax – Activity of providing ‘marketing, administrative, technical and other services’ to client located outside India – CBEC Circular No. 111 dated 04.02.2009 which clarified that such activities are to be regarded as export of services in terms of Rule 3(1)(iii) of ESR, 2005 not withdrawn till today – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-807-CESTAT-BANG](#)

M/s Larsen & Toubro Ltd Vs CCE, Hyderabad (Dated: February 22, 2010)

Service Tax – Commercial or Industrial Construction Service – Application for modification of order directing pre-deposit of Rs. 6 crores – Onshore terminal constructed for storage and purification of natural gas not 'transport terminal' as appearing in the exclusion clause of definition of CICS – Question as to whether 'onshore terminal' excluded from definition of CICS considered at length and pre-deposit ordered based on prima facie view on merits of case – No new plea of financial hardship in modification application – Modification of stay order shall amount to review of one's own order, which is not permissible – No merits in modification application, liable for rejection

[2010-TIOL-805-CESTAT-MUM](#)

KSH International Pvt Ltd Vs CCE, Belapur (Dated: January 14, 2010)

ST - Appellant canvassed purchase orders from prospective Indian buyers for the goods supplied by the foreign companies - foreign companies acted upon these P.O's and supplied the goods directly to the Indian buyers, who made the payments directly to the foreign suppliers – commission was paid to the appellant by foreign companies in convertible foreign exchange - benefit of the service provided by the appellant accrued to the foreign companies outside India – Conditions of Rule 3(2) of Export of Services Rules satisfied – Service is an Export service - Rebate admissible

[Also see analysis of the Order](#)

[2010-TIOL-799-CESTAT-KOL](#)

M N Dastur & Co Pvt Ltd Vs CST, Kolkata (Dated: February 22, 2010)

Cenvat credit taken in respect of service tax paid by branch offices sought to be denied on ground of absence of centralized registration - Assistant Commissioner allowing the appellant's Head office at Kolkata to collect and pay service tax of their branch offices – prima facie case in favour – pre-deposit waived and stay ordered

[2010-TIOL-798-CESTAT-AHM](#)

Port Officer, Gujarat Maritime Board Vs CCE, Rajkot (Dated: April 28, 2010)

Cenvat Credit - Service tax paid on the inspection charges for constructing the staff quarters at Morbi and service tax paid on mobile phone service are input services – in view of Tribunal decisions in GHCL Ltd. ([2009-TIOL-1208-CESTAT-AHM](#)), CCE Visakhapatnam Vs. Hindustan Zinc Ltd. ([2009-TIOL-2318-CESTAT-BANG](#)) and CCE Nagpur Vs. Ultratech Cement Ltd. ([2009-TIOL-1193-CESTAT-MUM](#)) , credit allowed

[2010-TIOL-791-CESTAT-KOL](#)

M/s Saumya Mining Pvt Ltd Vs CST, Kolkata (Dated: April 19, 2010)

Contract is for removal of overburden and incidental ore – demand made on the ground that the applicants had provided site formation and clearance, excavation and earthmoving and moving services - prima-facie , no merit in the contention that contract is for mining of ore – pre-deposit ordered of 2 Crores

[2010-TIOL-790-CESTAT-MAD](#)

M/s Sundaram Finance Ltd Vs CST (LTU), Chennai (Dated: March 1, 2010)

Service Tax – Stay/dispensation of pre-deposit – fleet card services which enable the clients to obtain oil from petrol pumps on credit - the appellants have not made out a prima facie case for full waiver of the predeposit nor have they pleaded any financial hardship - At the prima facie stage, though it appears that fleet card serviced by the appellants is different from the usual credit cards, it does have common features such as making available credit to the clients for purchase of fuel from petrol pumps for which payment is made later on – pre-deposit of Rs 50 lakhs ordered.

[2010-TIOL-789-CESTAT-BANG](#)

M/s Nagarjuna Construction Company Vs CCE, Hyderabad (Dated: May 17, 2010)

Service Tax – Laying of pipelines for drinking water supply projects run by Gujarat Water Supply and Sewerage Board, not leviable to tax under either Commercial or Industrial Construction Service or Works Contract Service – Impugned order set aside

[Also see analysis of the Order](#)

[2010-TIOL-788-CESTAT-KOL](#)

Orissa State Beverages Corpn Ltd Vs CCE & CCS & ST, BBSR-I (Dated: February 22, 2010)

Pursuing legal remedy before the High Court is sufficient ground to condone the delay

[2010-TIOL-783-CESTAT-MUM](#)

M/s Ajinkyatara Sahakari Krishi Audyogik OtvS Ltd Vs CCE, Pune-II (Dated: March 11, 2010)

Activity of cutting of sugarcanes and its loading and transportation up to the sugar factory is not the services 'Clearing and Forwarding Agents'- second SCN for the same period issued seeking service tax under the category Goods Transport Operator – SCN barred by limitation – Demand set aside

[Also see analysis of the Order](#)

[2010-TIOL-782-CESTAT-BANG](#)

M/s Sobha Developers Ltd Vs CST, Bangalore (Dated: January 11, 2010)

Service Tax – In terms of SEZ Act, 2005, services rendered to a unit located in SEZ by a unit in DTA is treated as export of service – Prima facie case for waiver of pre-deposit – Stay granted

[2010-TIOL-776-CESTAT-BANG](#)

M/s Popular Vehicles And Services Ltd Vs CCE, Kochi (Dated: February 01, 2010)

Service Tax – Business Auxiliary service – Receipt of commission by automotive dealer for sale of vehicle and facilitating sale of insurance policy from subsidiary of automotive company which is engaged as insurance agent – Once tax is discharged on commission received from insurance company for provision of services to clients/buyers of vehicles, dealer who contributed for the same outcome not liable to pay service tax – Demand of service tax against dealer under BAS for receiving share of commission from intermediary not sustainable – Impugned order liable to be set aside

[2010-TIOL-772-CESTAT-MUM](#)

Shramik Sarva Seva Trust Vs CCE & CST, Aurangabad (Dated: May 10, 2010)

Incorporation of additional grounds in appeal memo challenging taxability of appellant's activity – appellant accepted and paid the tax liability and contested only penal liability before adjudicating authority - since no such issue taken before lower authority, it is to be considered as an afterthought – Application rejected

[Also see analysis of the Order](#)

[2010-TIOL-767-CESTAT-AHM](#)

M/s Karna Security & Housekeeping Services Vs CST, Ahmedabad (Dated: April 28, 2010)

Merely because the appellant is registered with the PF department as Security provider does not imply that they were "Security Agency Service" providers and liable to Service Tax – Department has failed to conduct any investigation to ascertain from the customers as to what service was received by them – Demand cannot be justified

[Also see analysis of the Order](#)

[2010-TIOL-766-CESTAT-BANG](#)

M/s Ogilvy & Mather Pvt Ltd Vs CST, Bangalore (Dated: February 11, 2010)

Service Tax – Refund – Refund claim of excess service tax paid after issue of credit notes to clients for excess amounts – Erroneous refund sanctioned under an order passed by sanctioning authority recoverable by invoking provisions of Section 11A of Central Excise Act without taking recourse to Section 35E – No infirmity in impugned order

[2010-TIOL-761-CESTAT-DEL](#)

M/s Suzuki Powertrain India Ltd Vs CCE, Delhi (Dated: May 14, 2010)

Service Tax – Tax paid by Indian recipient of Foreign Service – Credit as input service entitled: the service recipient in India receiving taxable service from a foreign service provider pays the service tax under the provisions of Section 66 only readwith Section 66A and Rule 2 (1) (d) (iv) of the Service Tax Rules, 1994. Since the appellant, a recipient of taxable service from a foreign service provider, had paid the service tax as a deemed service provider under Section 66A of the Finance Act readwith Rule 2 (1) (d) (iv) of the Service Tax Rules, 1994 and Section 66 of the Finance Act, 1994 and since the service received has been used as input by the appellant in relation to the manufacturer of the finished products, they would be eligible for Cenvat credit.

Stay Granted: The pre-deposit of Cenvat credit demand and interest is, therefore, waived for hearing of this appeal and recovery thereof stayed till the disposal of the appeal

[Also see analysis of the Order](#)

[2010-TIOL-760-CESTAT-BANG](#)

Syndicate Bank Vs CCE, Mangalore (Dated: January 13, 2010)

Service Tax – Banking & Other Financial Services – Dates on demand drafts and corresponding TR-6 challans indicate that tax was deposited in focal point branch within due dates – Stamp put by focal point bank not a guiding factor to conclude that there is delay in payment of service tax, interest demand liable to be set aside – Once

a statutory auditor gives a certificate, the said certificate should be considered as an evidence of substantiation to the claim for eligibility of CENVAT credit – Original authority directed to reconsider the issue afresh on this limited aspect based on certificate issued by statutory auditors – Penalty under Rule 15(3) of CCR, 2004 set aside

[2010-TIOL-754-CESTAT-KOL](#)

M/s Karam Chand Thappar & Bross (Coal Sales) Ltd Vs CST, Kolkata (Dated: April 23, 2010)

ST - C&F Service - Assessee seems waiver of pre-deposit and stay on recovery - Tribunal orders pre-deposit of Rs 3.71 Cr - Assessee moves to High Court which in turn directs the Tribunal to hear the case made out by the assessee and then decide - held, since the Mumbai Bench of the Tribunal has granted waiver from pre-deposit in the assessee's own case based on similar facts and terms and conditions, the principle of consistency must be complied with - Stay granted and waiver from pre-deposit of tax, interest and penalties granted

[2010-TIOL-753-CESTAT-AHM](#)

M/s Lucky Security & Personnel Services Vs CST, Ahmedabad (Dated: May 3, 2010)

ST - Application for modification of stay order - Assessee pleads that it was not rent-a-cab service but security service which was provided and since it has not received any tax from semi-government bodies it has not deposited the same - held, non-receipt of tax from semi-government agencies cannot be a defence against the demand. The assessee has provided rent-a-cab service apart from the security service. Since no financial hardships have been established, the plea is rejected.

[2010-TIOL-752-CESTAT-AHM](#)

M/s Orion Appliances Ltd Vs CST, Ahmedabad (Dated: May 7, 2010)

Trading activity is not an exempted service – rule 6 of the CCR, 2004 does not apply – there is no provision in the Cenvat Credit Rules, 2004 to cover such situations - only obvious solution which is legally correct is to ensure that once in a quarter or once in a six months, the quantum of input service tax credit attributed to trading activities according to standard accounting principles is deducted – Matter remanded for quantification

[Also see analysis of the Order](#)

[2010-TIOL-751-CESTAT-DEL](#)

CCE, Ludhiana Vs M/s Ludhiana Gardens (Dated: April 12, 2010)

ST - Penalty under Sec 78 - Revenue alleges suppression and imposes penalty twice the sum of service tax evaded - Commissioner(A) reduces it to equal to the tax evaded - held, the limitation under Sec 78 is that the penalty cannot be imposed in excess of twice the sum of tax evaded and less than the sum evaded - the discretion to reduce penalty in this range is there and there is no infirmity in the Commissioner's order - Revenue's appeal dismissed

[2010-TIOL-746-CESTAT-AHM](#)

M/s Anand Associates Vs CCE, Ahmedabad (Dated: May 7, 2010)

Service Tax on Mandap keepers - Matter remanded earlier for the limited purpose of re-calculation of duty liability - no appeal was made against penalty imposition - section 80 of the Finance Act, 1994 not invoked - Penalty imposed sustainable

[2010-TIOL-744-CESTAT-BANG](#)

M/s First Flight Couriers Ltd Vs CCE, Cochin (Dated: December 18, 2009)

Service Tax - Courier Service - Delivery of documents to customer located outside India - Service partly performed in India and partly outside India is export of service, not liable to pay service tax - Impugned order set aside

[2010-TIOL-743-CESTAT-MUM](#)

M/s Hindustan Petroleum Corporation Limited Vs CCE, Mumbai (Dated: January 29, 2010)

Service Tax demand of Rs.6.48 Crores - COD granting clearance to contest only the penalty and interest - as liability to service tax demand is not contested, liability to interest confirmed as per law is sustainable - no penalty is liable to be imposed as the appellant had rightly believed that the activity impugned was not exigible to service tax

[Also see analysis of the Order](#)

[2010-TIOL-742-CESTAT-KOL](#)

M/s Gupta Consultancy Services Vs CCE, Guwahati (Dated: March 26, 2010)

Amount of service tax along with interest paid prior to issuance of show cause notice – appellant under bona fide belief that they are not liable to service tax as provider of manpower recruitment and supply agency – adjudicating authority not imposing any penalty u/s 77 and 78 of Finance Act, 1994 – revisionary authority imposing penalty of Rs.5000/- & equivalent amount of service tax – for the period prior to 10.08.2008, maximum penalty u/s 77 is Rs.1000 – matter remanded to decide matter afresh in view of above legal position and Board Circular 97/8/2007-ST dated 23.08.2007 as apparently no suppression involved.

[2010-TIOL-737-CESTAT-KOL](#)

M/s Orissa Industrial Infrastructure Development Corporation Vs CCE & CST, BBSR-I (Dated: February 22, 2010)

As per Section 31 of the Orissa Industrial Infrastructure Development Corporation Act, 1980 the Corporation is acquiring land for public purpose i.e. to set up industry units and the land remains with the Corporation and the same were given to different industrial units on lease - as the ownership is with the Corporation therefore prima facie Applicant cannot be said to have provided any service directly or indirectly of consultancy or technical assistance for acquisition of the real estate – Pre-deposit of Rs.18.45 Crores of Service Tax demand and penalty waived and recovery stayed.

[2010-TIOL-733-CESTAT-AHM](#)

CCE, Vapi Vs M/s Castrol India Ltd (Dated: May 7, 2010)

Service Tax paid on outward catering services by the canteen located in factory premises is eligible as CENVAT credit – issue is no more res-integra in view of Tribunal decisions in Ferromatik Milacron India Ltd. ([2009-TIOL-01-CESTAT-AHM](#)) , Cadila Pharmaceuticals Ltd. ([2009-TIOL-1336-CESTAT-AHM](#)) GTC Industries Ltd. ([2008-TIOL-1634-CESTAT-MUM-LB](#)) – Revenue appeal rejected.

[2010-TIOL-732-CESTAT-AHM](#)

M/s U B Engineering Limited Vs CCE, Rajkot (Dated: April 30, 2010)

Payment of service tax – bank returning the challans affixing the date of realization of cheque – as per rule 6(2A) of Service Tax Rules, 1994 date of presentation is to be considered as date of payment of service tax – however, date of presenting the cheques is not available and appellant does not have any evidence – appellant treating date of cheque as date of presentation is not correct – bona fide belief harboured by appellant – penalty set aside invoking section 80 of Finance Act, 1994.

[2010-TIOL-722-CESTAT-BANG](#)

CCE & CC, Guntur Vs M/s Hindustan Coca-Cola Beverages Pvt Ltd (Dated: January 1, 2010)

Service Tax – Tax paid on Group Health Insurance, Security Services and Pest Control Services available as CENVAT Credit – No infirmity in impugned order – No merit in Revenue appeal

[2010-TIOL-721-CESTAT-BANG](#)

M/s Leela Scottish Lace Pvt Ltd Vs CC, Bangalore (Dated: March 3, 2010)

Service Tax – CENVAT Credit of service tax paid on CHA services availed for export of goods by 100% EOU – When sale of goods is on FOB/CIF basis, place of removal is the port where goods are loaded for export – Service tax paid on CHA services, is eligible as CENVAT Credit for a manufacturer – Impugned order set aside to the extent which disallows CENVAT Credit on CHA Services

[2010-TIOL-719-CESTAT-BANG](#)

M/s Leela Scottish Lace Pvt Ltd Vs CC, Bangalore (Dated: January 15, 2010)

Service Tax – CHA services utilized for export of goods are input services – Refund of service tax paid thereon not deniable – LB decision in GTC Industries = [2008-TIOL-1634-CESTAT-MUM-LB](#) followed

[2010-TIOL-716-CESTAT-MAD](#)

M/s KTV Oil Mills Vs CCE (ST), Tirunelveli (Dated: March 4, 2010)

Service Tax – Section 84 of the Finance Act, 1994 – Section 84(4) clearly states that no order under the said Section shall be passed by the Commissioner of Central Excise in respect of any issue if any appeal against such issues is pending before the Commissioner (Appeals)

[2010-TIOL-715-CESTAT-BANG](#)

CST, Bangalore Vs M/s ACE Designers Ltd (Dated: February 5, 2010)

Service Tax – Outdoor catering service is input service in view of LB decision in GTC Industries case [2008-TIOL-1634-CESTAT-MUM-LB](#) - Credit not deniable

[2010-TIOL-710-CESTAT-BANG](#)

SRK Constructions Vs CCE, Kochi (Dated: January 18, 2010)

Service Tax – Construction of Complex Service – Construction activity undertaken by a partnership firm on land brought in by one of the partners of partnership firm – As per Section 14 of the Indian Partnership Act, 1932, property brought into the firm by partners belongs to stock of the firm – Issue prima facie covered by Magus Construction case – Pre-deposit waived and stay granted

[2010-TIOL-709-CESTAT-BANG](#)

JK Tyre & Industries Ltd Vs CCE, Mysore (Dated: January 15, 2010)

Service Tax – CENVAT Credit – Eligibility of service tax paid on CHA service utilized for export of goods – Board Circular dated 23.08.2007 clarified that where the delivery of goods sold took place at destination point, the credit of service tax paid on transportation up to place of sale admissible – Assessee claim that ownership of goods cleared for export were transferred to buyers at place of destination to be verified by lower authority – Matter remanded

[2010-TIOL-705-CESTAT-MAD](#)

CCE, Salem Vs M/s Devi Constructions (Dated: March 16, 2010)

Service Tax – penalty – Commissioner (Appeals) rightly extended the protection under Section 80 of the Finance Act, 1994 as there was confusion in the mind of the assessee.

[2010-TIOL-704-CESTAT-BANG](#)

M/s Bellary Iron & Ores Pvt Ltd Vs CCE, Belgaum (Dated: December 30, 2009)

Service Tax – Freight paid to truck owners for transportation of iron ore by road within the mining area not exigible to service tax under GTA service as service provided by truck owners is outside the ambit of GTA Service – Impugned orders confirming service tax demands under GTA service and levy of interest and penalties liable to be set aside

Definition of 'road' – Contention that 'road' as mentioned in Section 65(105)(zzp) refers only to 'public road' not acceptable – Since demand of service tax is set aside, reasoning only of academic interest

Eligibility of Notification No. 34/04-ST – If an assessee incurs freight upto Rs. 1500/-

per consignment, benefit of exemption Notification 34/2004-ST not available

Limitation – Non-payment of service tax on the said activity having noticed by audit party of department, demand cum show cause notice issued beyond one year hit by limitation

[2010-TIOL-700-CESTAT-MAD](#)

JBM Auto System Private Ltd Vs CCE, Chennai (Dated: February 25, 2010)

Service Tax – Penalty – revenue issued show cause notice proposing levy of service tax under Consulting Engineer and also under Intellectual Property Service – there is a reasonable cause to extend the benefit under Section 80 and setting aside penalty under Section 76 of the Finance Act, 1994.

[2010-TIOL-699-CESTAT-BANG](#)

M/s Ramky Infrastructure Ltd Vs CCE, Hyderabad (Dated: December 29, 2009)

Service Tax – Works Contract – Execution of turnkey projects for construction of dam, canals, distributory system to feed ayacut etc for Government of Andhra Pradesh – Board Circular dt.15/9/2009 clarifies that infrastructure activities which are concerned with welfare of citizens of this country excluded from service tax liability – Prima facie case for waiver of pre-deposit – Stay granted

[2010-TIOL-698-CESTAT-MAD](#)

M/s Cognizant Technology Solutions India Pvt Ltd Vs Commissioner, LTU, Chennai (Dated: March 3, 2010)

Service tax – Manpower supply service vis-à-vis Information Technology Services – the services rendered by the appellants in relation to Data Management and Biostatistics and Reporting are in the nature of Information Technology Service and hence not taxable during the impugned period – demand under Manpower Supply service set aside.

[Also see analysis of the Order](#)

[2010-TIOL-697-CESTAT-AHM](#)

M/s Honest Industrial Sentinels Vs CST, Ahmedabad (Dated: April 28, 2010)

In the absence of any written evidence available with the Revenue to show that the appellant (a proprietary firm) was made aware of the service tax liability prior to the date he applied for registration the appellants claim of voluntary registration and payment of service tax before issuance of SCN along with interest and penalty of Rs.500/- under section 75A, a lenient view is taken u/s 80 of the Finance Act, 1994 – penalties under sections 76, 77 and 78 set aside and appeal allowed

[2010-TIOL-691-CESTAT-DEL](#)

CCE, Jaipur Vs M/s Science Centre (Dated: April 28, 2010)

Mere paying of service tax before issuance of show cause notice does not give relief from imposition of penalty – reasoning given by Commissioner(A) in not imposing penalty not justified – imposition of simultaneous penalties u/s 76 and 78 of Finance Act, 1994 - application of s. 80 not considered although pleaded – matter remanded

[2010-TIOL-690-CESTAT-AHM](#)

M/s Puriya Industrial Packaging (P) Ltd Vs CCE, Daman (Dated: March 31, 2010)

Cenvat Credit of Service Tax paid on Outward Transportation – Purchase order as well as the invoice shows that transit insurance is to be arranged by the owner – Goods cannot be said to be supplied on FOR destination basis – Credit deniable – Prima facie, on merit department has a case – invoking of extended period – since matter was referred to Larger Bench and a decision was given it shows that two views are possible on the issue – suppression or mis-declaration with an intent to evade duty may not be justifiable – appellant has a strong prima facie case in favour – Pre-deposit waived and stay granted.

[2010-TIOL-685-CESTAT-BANG](#)

M/s Gulf Oil Corporation Ltd Vs CST, Hyderabad (Dated: December 21, 2009)

Service Tax – Site Formation Service – Eligibility of CENVAT Credit on motor vehicles and inclusion of free supply materials viz., cost of diesel and explosives in transaction value – Rule 5 of Service Tax Valuation Rules read with Section 67 applicable only when consideration is received from service recipient – No findings that expenses towards diesel and explosives are incurred by service recipient – Since entire CENVAT Credit amounting to Rs. 6.31 crores availed on motor vehicles reversed during adjudication proceedings, amount sufficient to hear appeal – No further pre-deposit required – Stay granted

[2010-TIOL-681-CESTAT-BANG](#)

M/s J & A Foundations Pvt Ltd Vs CCE, Cochin (Dated: December 7, 2009)

Service Tax – Commercial or Industrial Construction Service – Assessee engaged in rendering piling work to contractors availed abatement of 67% towards value of taxable service – Since Rs. 75.44 lakhs already deposited pre-deposit of balance amounts waived and stay granted

[2010-TIOL-680-CESTAT-BANG](#)

M/s Karnataka State Beverages Corporation Ltd Vs CST, Bangalore (Dated: January 12, 2010)

Service Tax – Business Auxiliary Service – As per liquor policy of the Government of Karnataka, assessee purchases liquor and sells it to dealers – Scrutiny of balance sheets also indicates that assessee is engaged in trading of liquor – Prima facie case for waiver of pre-deposit – Stay granted

[2010-TIOL-676-CESTAT-BANG](#)

M/s The India Cements Ltd Vs CCE, Tirupati (Dated: February 12, 2010)

Service Tax – Eligibility of CENVAT Credit of service tax paid on management, maintenance or repair service utilized for maintenance of residential colony – Original authority to examine the nature of service involved and entitlement of credit of service tax paid on such activity in the light of High Court decision in Excel Crop Care Ltd [2008-TIOL-568-HC-AHM-CX](#) – Matter remanded

[2010-TIOL-675-CESTAT-BANG](#)

M/s Tecumseh Products India Pvt Ltd Vs CC & CCE, Hyderabad (Dated: January 29, 2010)

Service Tax – CENVAT Credit on catering/canteen service and mediclaim insurance services – Issue covered by Larger Bench decision in GTC Industries case – Credit not deniable

[2010-TIOL-673-CESTAT-BANG](#)

M/s Valsala Travels Pvt Ltd Vs CST, Bangalore (Dated: January 18, 2010)

Service Tax – Tour operator service – Transport of employees of different companies from residence to place of work and back – Transport authority has provided permit under the category of 'private service vehicle' – Whether permit could be considered as 'transport service vehicle' or 'private service vehicle' needs to be gone into detail at the time of final disposal of appeal – Pre-deposit Rs. 25 lakhs ordered in addition to

Rs. 23 lakhs already deposited
2010-TIOL-669-CESTAT-BANG
M/s Larsen & Toubro Ltd (Ecc Divn) Vs CCE, Hyderabad (Dated : December 11, 2009)
Service Tax – Commercial or Industrial Construction Service – Construction of onshore terminal for receiving, processing/purification and distribution of natural gas – Onshore terminal constructed for storage and purification of natural gas is not 'transport terminal' as appearing in the exclusion clause of definition of CICS – Pre-deposit of Rs. 6 crores ordered
2010-TIOL-668-CESTAT-BANG
M/s Telco Construction Equipment Company Ltd Vs CST, Bangalore (Dated: February 1, 2010)
Service Tax – Agreements with foreign collaborators for transfer of technology and know-how for manufacture of certain products –Service tax liability on the assessee under the category of 'Consulting Engineer Service' and 'Intellectual Property Service' – Once an appeal is allowed on the very same issue by Commissioner (Appeals) in assessee's own case and Revenue having not filed an appeal against such an order in a higher forum, order binding on the department – Assessee having paid Rs. 12.23 lakhs, sufficient as pre-deposit – Stay granted
2010-TIOL-663-CESTAT-BANG
M/s Bangalore Vihara Kendra Vs CCE, Bangalore (Dated: March 2, 2010)
Service Tax – When service tax in default is paid with interest provisions of Section 73(3) applies – Board Circular 137 dated 03.10.2007 clarifies that no SCN to be issued to defaulter if tax liabilities are paid with interest – Impugned order to the extent it upholds service tax liability and interest upheld, to the extent it imposes penalties set aside
2010-TIOL-662-CESTAT-MAD
Price Waterhouse Vs CST, Chennai (Dated: March 17, 2010)
Service Tax – Chartered Accountant's Service - exemption under Notification No 59/98 ST dated 16.10.98 is not admissible for certification relating to computation of income from international transactions as required under Section 92E and Rule 10 E of the Income Tax Act, 1961/ Rules.

2010-TIOL-655-CESTAT-DEL
Career Launcher India Limited Vs CST, New Delhi (Dated: April 5, 2010)
ST - Coaching Service - sale of study materials - assessee claims it sells text books and also study materials - Revenue argues that the assessee has sold only study materials and no text books and full tax is to be paid - held, in the absence of definition of 'tax books' in Board Circular, status quo ante to be maintained
2010-TIOL-654-CESTAT-AHM
CST, Ahmedabad Vs M/s Purni Ads Pvt Ltd (Dated: April 23, 2010)
ST - short payment of tax - Revenue raises demand on the basis of difference between ST-3 return and Income Tax balance sheet - Assessee argues that the receipts shown in I-T return is loan and not service tax receipt - Demand raised - Commissioner(A) allows the assessee's appeal - held, unless the Revenue proves that the receipts of the assessee is service tax, no demand can be raised
2010-TIOL-648-CESTAT-DEL
M/s Birla Ready Mix Concrete Vs CCE, Noida (Dated: April 5, 2010)
ST - Stay/dispensation of pre-deposit - GTA service recipient - assessee argues that it did not avail GTA service but what it availed was the service of a concrete mixer - also contends that if it was GTA service it was entitled to abatement notification - held, in view of time bar issue and proper classification of service and then the issue of abatement, pre-deposit ordered
2010-TIOL-647-CESTAT-AHM
CCE, Ahmedabad Vs M/s AIA Engineering Ltd (Dated: March 29, 2010)
ST - refund - Commissioner(A) takes the view that refund is admissible even though the services are not correctly classified by the service provider - Revenue argues that the terminal handling charges and REPO charges are not liable to tax as port service whereas the tax for which refund is sought is port service and also transport of goods by road - held, in view of the Board's clarification, if the classification of services is to be corrected it is to be done at service provider's end and not receiver's end - not a fit case for stay

[2010-TIOL-646-CESTAT-DEL-LB](#)

CCE, Raipur Vs M/s BSBK Pvt Ltd (Dated: May 6, 2010)

Service Tax – Composite Contracts - Turnkey contracts can be vivisected – Daelim – ([2003-TIOL-110-CESTAT-DEL](#)) overruled – it can irresistibly be concluded that a contract whether composite or Turnkey may involve an activity or cluster of activities in the nature of services and such services may be provided in the course of execution of such contracts while incorporating goods into the contract concerned. Such discernible services may be advice, consultancy or technical assistance and depending upon the nature of the activity, they may be classifiable under appropriate category of taxable service under section 65 A of the Finance Act, 1994. When Article 366(29-A)(b) to the Constitution has made indivisible contracts of the aforesaid nature divisible to find out goods component and value thereof, it can be unambiguously be stated that the remnant part of the contract may be attributable to the scope of service tax under the Provisions of Finance Act, 1994.

The plea that because decision of Daelim's case has been followed in the past by different Benches of the Tribunal, that holds the field does not get sanction of law when different aspects of a commercial transaction are liable to tax under different legislations according to the fields of taxation assigned to States and Government of India.

[Also see analysis of the Order](#)

[2010-TIOL-639-CESTAT-DEL](#)

M/s Gora Mal Hari Ram Ltd Vs CST, New Delhi (Dated: February 9, 2010)

ST - Penalty - Assessee fails to comply with Tribunal order of pre-deposit - appeal dismissed - later DR informs the court that the assessee has complied with the direction - appeal restored - held, going by the facts, the assessee has regularly defaulted in paying tax - his case is found to be of abuse of process of law - not a fit case for invoking Sec 80

[2010-TIOL-638-CESTAT-AHM](#)

M/s Usha International Ltd Vs CST, Ahmedabad (Dated: March 30, 2010)

ST - Unjust enrichment - Assessee is a branch office of a fan manufacturer - engaged in distribution of fan - pays full tax on GTA service - later realises it has failed to avail abatement - files refund claim - refund granted - Commissioner issues SCN on the ground of unjust enrichment - assessee argues since it is a branch office and the price of the products is fixed by the head office it makes no difference - also furnishes CA's certificate to the effect that the service tax payment has not made any difference to the price of the products - held, prima facie the assessee has a strong case - waiver from predeposit granted

[2010-TIOL-635-CESTAT-DEL](#)

M/s Kitply Industries Ltd Vs CCE, Meerut-II (Dated: February 19, 2010)

ST - Cenvat Credit - Revenue disallows credit on mobile phone bill not raised in the assessee's name and the credit taken for insurance services on photocopy - held, Credit not admissible on a bill not raised in the name of the assessee - Revenue to verify the availment of insurance service as input service and then allow credit - since no mala fide is involved, it is not a case of penalty

[2010-TIOL-632-CESTAT-MUM](#)

CCE, Pune Vs Shankar Ramchandra Auctioneers (Dated: April 13, 2010)

Respondent providing "Auctioneering Service" but made to register by Revenue under "BAS" and pay Service Tax during F.Y 2004-2006 – Auctioneering service notified only w.e.f 01.05.2006 – it cannot be treated as part of any pre-existing service – since amount collected without authority of law and there being no unjust enrichment refund claim allowed

[Also see analysis of the Order](#)

[2010-TIOL-631-CESTAT-DEL](#)

CCE, Chandigarh Vs M/s Cater To Cater Enterprise (Dated: March 4, 2010)

ST - Penalty - Revenue contests Commissioner(A) order holding that penalty under Sec 76 and 78 are mutually exclusive - held, issue is settled in favour of Revenue as penalty under both the Sections can be imposed simultaneously

[2010-TIOL-630-CESTAT-AHM](#)

M/s Gujarat Apollo Industries Ltd Vs CCE, Ahmedabad (Dated: March 22, 2010)

ST - commercial or industrial construction - Assessee enters into contract with a State Govt body supplying water for erection, testing, commissioning and maintenance of water meters - Revenue raises demand levies penalty - Assessee argues that it is a case of turnkey project and Revenue has vivisected the same for levying tax - held, since the issue has gone to the Large Bench, waiver from pre-deposit granted with stay

[2010-TIOL-625-CESTAT-AHM](#)

CST, Ahmedabad Vs M/s Cadila Pharmaceuticals Ltd (Dated: February 25, 2010)

ST - GTA Service - Assessee is a pharma manufacturer - receives GTA service - takes cenvat credit for tax paid - Revenue denies the benefit on the ground that in the consignment notes issued to the assessee by the GTAs there was no declaration that no credit has been taken nor the benefit of Notification 12/2003-ST was availed - Commissioner(A) disagrees with the Revenue - held, there is no denying that the assessee has been paying the tax by reverse charge mechanism. For availing credit the Board has clarified that the endorsement has to be made on the consignment note but no such condition has been prescribed by the Notification. Thus the Board Circular cannot be mandatory and cannot be used to deny substantive rights. Revenue's appeal dismissed

[2010-TIOL-623-CESTAT-BANG](#)

M/s Zodaic Advertisers Vs CCE, Cochin (Dated: December 9, 2009)

Service Tax – Advertising agency service – Whether activity undertaken by assessee comes under the definition of advertising agency – Since documents viz., purchase orders, bills, sales invoices etc were filed for the first time before Tribunal and not before the original authority to substantiate their claims, matter remanded to original authority without any finding on merits

[2010-TIOL-621-CESTAT-MUM](#)

Multi Organics Pvt Ltd Vs CCE, Nagpur (Dated: March 31, 2010)

Job worker paying Service Tax although entitled for exemption under notification 8/2005-ST – No infirmity in supplier manufacturer taking Cenvat credit of 'Input Service' and clearing final products on payment of duty

[Also see analysis of the Order](#)

[2010-TIOL-620-CESTAT-MAD](#)

A Sekar Vs CCE, Trichy (Dated: December 8, 2009)

Service Tax - Erection, Commissioning and Installation Service – Laying of pipelines – Laying of pipelines is not covered under the category of Erection, Commissioning and Installation Service as held in Indian Hume Pipe Co. Ltd. Vs CCE - [2008-TIOL-1665-CESTAT-MAD](#) (Para 2)

[2010-TIOL-617-CESTAT-AHM](#)

M/s Jai Shakthi Engg & Constructions Vs CCE, Rajkot (Dated: March 22, 2010)

ST - penalty - Assessee is registered under two service categories - Erection, Commissioning and Installation Service and Construction Service - avails abatement - also receives steel supplied by the service receiver - Revenue denies benefits of exemption notification and imposes penalty - Assessee further argues that it is not clear from the Commissioner's order under which Notification the assessee is not eligible for exemption - held, since the assessee has deposited Rs 45 lakh it is sufficient amount for pre-deposit - case remanded

[2010-TIOL-616-CESTAT-MAD](#)

CCE, Puducherry Vs M/s Ananda Thirumana Nilayam (Dated: January 21, 2010)

Service Tax – [Notification 12/2003 ST 20.6.2003](#) – LPG Cylinders sold to those who booked the Kalyana Mandapams for functions – Commissioner (Appeals) rightly extended the benefit of [Notification No 12/2003 ST](#) – Revenue appeal has no merit.

[2010-TIOL-612-CESTAT-DEL](#)

M/s RIA Construction Ltd Vs CCE, Panchkula (Dated: March 4, 2010)

ST - Penalty - Assessee fails to take registration and pay taxes - On being pointed out assessee pays tax with interest - Original authority invokes Sec 80 - Commissioner revises the order and imposes penalty under various sections - Assessee argues it was initially a proprietary company which was converted into a limited company with the proprietary as one of the Directors - because of confusion the assessee failed to pay taxes - held, if there was valid confusion the assessee should have filed return on half yearly basis which was not done in this case - no infirmity in Commissioner's order - not a fit case to attract Sec 73(3) - Assessee's petition rejected

[2010-TIOL-611-CESTAT-MAD](#)

M/s K M B Granites Pvt Ltd Vs CCE, Salem (Dated: January 15, 2010)

Service Tax – Goods Transport Agency service – transportation service provided by individual truck owners / lorry owners is not taxable under Goods Transport Agency service – demand set aside.

[2010-TIOL-610-CESTAT-AMH](#)

M/s Santosh Starch Products Vs CCE, Rajkot (Dated: March 29, 2010)

Service Tax – GTA Service – Rejection of appeal by appellate Commissioner for non-compliance of pre-deposit – Service tax paid in 2007 with interest and return filed – Prima facie matter covered by Section 73(3) and a fit case to be considered under provisions of Section 80 – Matter remanded to Appellate Commissioner to decide the issue afresh without insisting pre-deposit of penalty