

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL  
BANGALORE**

REGIONAL BENCH - COURT NO. 1

**Service Tax Appeal No. 20938 of 2016**

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-066 to 073/2015-16 dated 12.01.2016/Service Tax passed by the Commissioner of Central Excise, Customs & Service Tax, Cochin.)

**M/s. Trans Asian Shipping Services  
(P) Ltd.,**

Trans Asia Corporate Park, XIV/396C,  
Seaport Airport Road, Chittethukara,  
Kakkanad,  
Cochin - 682 037.  
Kerala.

Appellant(s)

*VERSUS*

**Commissioner of Central Excise,  
Customs and Service Tax,**

C.R. Building, I.S. Press Road,  
Ernakulam,  
Cochin-682 018,  
Kerala.

Respondent(s)

**APPEARANCE:**

Mr. Reuben Joseph and Mr. N. Vijayakumar, Advocates for the Appellant.

Mr. M. Sreekanth, Asst. Commissioner (AR) for the Respondent.

**CORAM:**

**HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)  
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 20409 / 2026**

DATE OF HEARING: 25.11.2025

DATE OF DECISION: 24.03.2026

**PER: R. BHAGYA DEVI**

This appeal is filed by the appellant M/s. Trans Asian Shipping Services Pvt. Ltd. against Order-in-Original No.066 to

073/2015-16 dated 12.01.2016 passed by the Commissioner of Central Excise, Customs and Service Tax, Cochin.

2. The appellant M/s Trans Asian Shipping Services Pvt. Ltd. are into providing various services namely Business Auxiliary Services, Business Support Services, Storage and Warehousing Services etc. One of the major businesses of the appellant is of operating a shipping line and also functioning as Multimodal Transport Operator wherein they arrange export and import of loaded containers from outside to India or from India to other countries. At foreign ports, they appoint foreign agents and these agents complete various port formalities and transportation on behalf of the appellant and handover the containers to the customers abroad for which commission is paid by the appellant to these agents in foreign currency. Considering the above services as taxable, the Commissioner in the impugned order invoking Section 66A of the Finance Act, 1994 observes that they are taxable under 'Business Auxiliary Services' and liable to pay service tax under reverse charge mechanism. Accordingly, confirmed service tax amount for the period from 18.04.2006 to 31.03.2014. Also imposed penalty under Section 76, 77 and 78 of the Finance Act, 1994. Aggrieved by this order the appellant is in appeal before us.

3. The Learned Counsel for the appellant submits that the period of dispute is from 18.04.2006 to 30.06.2012 and from 01.07.2012 to 31.03.2014, while the former is governed by Section 66A of the Finance Act, 1994 and the latter is governed by the Place of Provision of Service Rules, 2012. It is submitted that the appellant consistently held that the services provided by the foreign agents are classifiable as 'Steamer Agent Services'

under Section 65(100) of the Finance Act, 1994 and not as 'Business Auxiliary Services' as is held by the Commissioner in the impugned order. Relying on the decisions in the case of **Chakiat Agencies Pvt. Ltd. vs. CCE, Cochin: 2011 (31) STT 98 Bangalore CESTAT** and on the decision in the case of **Bhuvaneshwari Agencies Pvt. Ltd. vs. CCE, Service Tax-II Division, Bangalore 2008 (12) STT 427** submits that the services rendered by the appellant are not classifiable under 'Business Auxiliary Services' instead they can only be classifiable under 'Steamer Agent Services'.

3.1 It is further submitted that Rule 3(ii) of the Import of Service Rules is a performance-based test which governs categories, including Steamer Agent Services and its taxability depends on the place where the service is performed. In the instant case, since the services are received abroad, there is no liability to pay service tax. It is further stated that for the period from 01.07.2012 to 31.03.2014 based on the 'Place of Provision of Services Rules', 2012 only those services which are performed within the taxable territory are only liable to Service tax and in the instant case, since the services are rendered abroad, the question of service tax liability does not arise. Further, it is submitted that these are intermediary services; hence, there is no liability to pay service tax. Also relied on the CBEC Circular No. 197/7/2016 -ST dated 12.08.2016.

4. The Learned Authorised Representative for the Revenue reiterated the findings of the Commissioner in the impugned order.

5. Heard both sides. It is a fact that the appellant appoints foreign agents to complete various port formalities of behalf of their customers and for these services, the appellant pays

commission to the foreign agents in foreign currency. There is no dispute that the services are rendered abroad. In the first instance, we do not find any reasoning given either in the show-cause notice or in the impugned order to classify the above services as 'Business Auxiliary Services', since we find that the appellant herein is promoting his own business. Secondly, Section 66A reads as follows:

**"66A. Charge of service tax on services received from outside India.**

(1) Where any service specified in clause (105) of section 65 is, -

(a) provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and

(b) received by a person (hereinafter referred to as the recipient) who has his place of business, fixed establishment, permanent address or usual place or residence, in India,

such service shall, for the purposes of this section, be the taxable service, and such taxable service shall be treated as if the recipient had himself provided the service in India, and accordingly all the provisions of this Chapter shall apply:..."

6. On perusal of the above Section, it makes absolutely clear that the service tax liability is attracted when taxable services are received from a foreign service provider and the service-recipient is situated in India and has its fixed establishment/permanent residence in India. Further, a deeming legal fiction has been created so as to treat the service-recipient as the service provider and for application of the provisions of Chapter V of the Finance Act, 1994. Therefore, since the services are rendered abroad and not received in India, the question of

liability to pay service tax under Section 66A does not arise for the period from 18.04.2006 to 30.06.2012.

7. We also find that, in similar set of facts, this Tribunal in the case of **Bhuvaneshwari Agencies Pvt. Ltd.** (supra) this Tribunal observed as follows:

"4. On a careful consideration of the definition of the 'Business Auxiliary Services' as already extracted supra, it is seen that the activities carried out by the appellants do not fall within the first category of "promotion or marketing or sale of goods.....etc." and so also under the category (iii) i.e. any customer care service provided on behalf of the client. The learned JDR refers to category (ii) promotion or marketing of service provided by the client. I am required to consider as to whether the activity of rendering services of arranging shipment of the export cargo and negotiating the same with the shipping lines on behalf of the clients will fall under definition of 'Business Auxiliary Services' under Section 65(19) (ii) of Finance Act. I find that more specific category for coverage would be under the 'Steamer Agent' service which clearly refers to the type of activities carried out by the appellants under Section 65(100)(ii) i.e. "to book, advertise or canvass for cargo for or on behalf of a shipping line". The promotion or marketing of service provided by the client in category (ii) of 'Business Auxiliary Services' under Section 65(19) of Finance Act has to be read along with category (i) and (iii) of the definition of 'Business Auxiliary Services'. It cannot be broad enough to bring in a specified activity which has been delineated under steamer agent under the definition of 'Steamer Agent' under Section 65(100) which specifically covers in its item 2. i.e., "to book, advertise or canvas for cargo for or on behalf of a shipping line". In view of this category already mentioned under Steamer Agent, the plea of the appellant that they are not covered under the 'Business Auxiliary Services' is required to be upheld. There is no merit in the impugned order and the same is set aside by allowing the appeal with consequential relief, if any".

8. For the period from 01.07.2012 to 31.03.2014 as rightly claimed by the appellant, the period of dispute is governed by 'Place of Provision of Services Rules', 2012, 'the place of provision of a service shall be the location of the recipient of service'. Admittedly, in the instance case, the services are rendered abroad and received abroad; therefore, the question of taxability under Reverse Charge Mechanism (RCM) does not arise.

9. In view of the above, we do not find any merit in the impugned order and the same is set aside.

Appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 24.03.2026.)

**(P.A. AUGUSTIAN)**  
**MEMBER (JUDICIAL)**

**(R. BHAGYA DEVI)**  
**MEMBER (TECHNICAL)**

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