

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

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 21752 of 2015

[Arising out of Order-in-Appeal Nos. TVM-EXCUS-000-APP-245 & 246-14-15 dated 24.03.2015 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals-III), Cochin]

**M/s. National Centre for Earth
Science Studies**

(Formerly known as M/s. Centre for Earth
Science Studies)

P.B. No. 7250, Akkulam

Thiruvananthapuram – 695 031

.....**Appellant(s)**

VERSUS

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

T.C. No. 26/334(1&2)

I.C.E. Bhavan, Press Club Road

Thiruvananthapuram – 695 001

..... **Respondent(s)**

With

Service Tax Appeal No. 21754 of 2015

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APPEARANCE:

Mr. Anil Kumar B., Advocate for the Appellant
Mr. Rajashekar B.N.N., Superintendent (AR) for the Respondent

CORAM:

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

FINAL ORDER NOS. 20609 - 20610 / 2026

DATE OF HEARING: 21.11.2025
DATE OF DECISION: 08.05.2026

PER: P.A. AUGUSTIAN

The issue in the present appeals is whether the grants-in-aid received by Appellant from various Department/Ministries of State Government and Central Government are taxable under the category of 'Scientific or Technical Consultancy Services'.

2. Alleging that the Appellant short paid service tax during the period from 01.04.2001 to 31.12.2006, show cause notice dated 23.04.2008 was issued demanding service tax for the period from 2002-2003 to 2005-2006 and Adjudication Authority as per the Order-in-Original dated 21.08.2009 confirmed the demand of service tax by invoking the extended period of limitation and imposed penalty under Section 70, 76 and also under 78 of the Finance Act, 1994. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order modified the order to the extent of setting aside penalty imposed under Section 76 subject to payment of penalty imposed under Section 78. Aggrieved by the said order, Appeal No. ST/21752/2015 was filed. Similarly for the period from April, 2010 to March 2011, show cause notice was issued on 15.09.2011 and Adjudication authority as per Order-in-Original dated 27.06.2013 confirmed the demand and aggrieved by said order, an appeal was filed before the Commissioner (Appeals), who

as per the impugned order, rejected the appeal. Aggrieved by the said order, Appeal No. ST/21754/2015 is filed.

3. When the appeals came up for hearing, the Learned Counsel for the Appellant drew our attention to the details of value of taxable services rendered by the Appellant during the period from 2002-03 to 2005-06 and the amounts of Service Tax and Education Cess, paid by them during the said period as declared by them in the half-yearly returns filed by them in form ST3 are as under:

Sl. No.	Period	Total value reported through the ST 3 returns	ST paid	E Cess paid	Total payment
1	2002-03	10131147	506576	0	506576
2	2003-04	8772421	604661	0	604661
3	2004-05	16553474	1368369	4302	1372671
4	2005-06	7134123	713413	14267	727680
	Total	42591165	3193019	18569	3211588

4. Learned Counsel further submits that the Appellant has been rendering services to various Government agencies and other private organizations and the said services were classified by them under three different categories, such as (i) Core Projects, (ii) Externally funded projects and (iii) Consultancy Projects. The services that have been classified as Core Projects are projects solely funded by the State Government of Kerala, where the Appellant has got exclusive rights over the data collected as a result of such studies, and in such case the said services are beyond the scope of taxable services. During the process of investigation, the Appellant submitted three lists of projects undertaken by them during the period from 01.04.2001 to 31.12.2006 to the Assistant Commissioner (Preventive), Thiruvananthapuram vide their letter No. CESS/ACCTS/6172/Ser. Tax-Audit dated 25.07.2007 wherein a list of Grant-in-Aid projects of Departments/Agencies/ Ministries of Central/State Government and CESS internal projects for the period from 01.04.2001 to 31.12.2006, list of projects which attracts Service Tax for the period from 01.04.2001 to 31.12.2006, and a list

of Consultancy Projects which also attracts Service Tax for the period from 01.04.2001 to 31.12.2006 were submitted. But only on the ground that since the department could not confirm such projects as attracting Service Tax in the absence of any agreement executed in this behalf, demand was confirmed.

5. Learned Counsel further submits that a grant-in-aid is financial assistance provided by a government to another government (e.g., Central to State or State to State institutions), body, institution, or individual for a specific purpose, without requiring repayment. These funds are used to support specific projects, programs, or services and come with specific conditions and reporting requirements. Such funds are usually accompanied by requirements and standards set by the governing body for how they are to be spent. The grant in aid could be conditional or non-conditional. The use of the funds is monitored, often requiring the submission of utilization certificates, audited statements of accounts, and progress reports. Failure to comply with the conditions can result in the requirement to refund the grant with interest. The money typically comes from tax revenues and is allocated through the legislative process. The government generally reserves the right to withdraw, reduce, or modify a grant at its discretion; it cannot be claimed as an absolute right. As per the report of the Controller & Auditor General of India the grants-in-aid are given under Article 275(1) of the Constitution and are essentially for non-plan expenditure. An extract from a review of the grants-in-aid by the C&AG is reproduced below:

"Grants-in-aid are payments in the nature of assistance, donations or contributions made by one government to another government body, institution or individual. Grants-in-aid are given by the Union Government to State Governments and/or Panchayati Raj Institutions. Union Government also gives substantial funds as grants-in-aid to other agencies, bodies and institutions. Similarly, the State Governments also disburse grants-in-aid to agencies, bodies and institutions such as

universities, hospitals, co-operative institutions and others. The grants so released are utilized by these agencies, bodies and institutions for meeting day-to-day operating expenses and for creation of capital assets, besides delivery of services."

6. Learned Counsel further submits that the issue is no more res integra and this Tribunal in **M/s. Apitco Ltd. Vs. CST, Hyderabad [2010 (20) S.T.R 475 (Tri. Bang)]** considered the demand under Scientific and Technical Consultancy Service and held that the service tax is not leviable on the grants-in-aid received by the assessee from the Government as project implementing agency of the Government. Further, it is held that the demand invoking the extended period of limitation is also unsustainable. Though the Department filed an appeal challenging the said order before the Hon'ble Supreme Court, it was also dismissed vide their decision in **[2011 (23) S.T.R J94 (S.C)]**. Learned Counsel also draws our attention to the definition of 'Scientific and Technical Consultancy Service', Board Circular Nos. 125/7/2010-S.T. dated 30.07.2010 and 127/9/2010-S.T. dated 16.08.2010. Further draws our attention to the relevant part of Education guidance notes dated 20.06.2012 and Circular F. No. B.11/1/2001-TRU dated 09.07.2001. Learned Counsel also relied on the following decisions:

- i. **Madhya Pradesh Consultancy Organisation Ltd. Vs. C.C.E., Bhopal – 2017 (4) GSTL 100 (Tri.-Del.)**
- ii. **Mineral Exploration Corporation Ltd. Vs. CCE, Nagpur – 2015 (38) S.T.R 421 (Tri.-Mumbai)**
- iii. **Centre for Research and Industrial Staff Performance Vs. CGST, CE & CC, Bhopal – 2019-TIOL-1497-CESTAT-DEL.**
- iv. **Indian Institute of Chem. Technology Vs. C.C.E. & S.T., Hyderabad - III - 2010 (17) S.T.R 420 (Tri.-Bang.) upheld by the Hon'ble High Court of AP in CC & CE Vs. Indian Institute of Chemical Technology – 2012 (26) S.T.R. 97 (A.P)**

- v. **Marsons Fan Industries Vs. CCE, Calcutta – 2008 (225) E.L.T. 334 (S.C)**
- vi. **Lakshmi Engineering Works Vs. CCE, Palakkad – 2017 (7) G.S.T.L 459 (Tri.-Bang.)**
- vii. **Shv Energy Pvt. Ltd. Vs. CC, CE & ST, Hyderabad-I – 2021 (51) G.S.T.L 402 (Tri.-Hyd.)**
- viii. **TFL Quinn India Pvt. Ltd. Vs. CC, CE & ST, Hyderabad - IV – 2019 (25) G.S.T.L. 289 (Tri.-Hyd.)**
- ix. **Hindusthan Coca Cola Beverages Pvt. Ltd. Vs. CCE & ST, Patna – 2012 (284) E.L.T. 254 (Tri.-Kolkata)**

7. Learned Counsel further submits that in Appellant's own case, for the period from 2005-2006 to 2009-2010, same demand was made and service tax of Rs. 83,73,853/- was confirmed. The Respondent vide Order-in-Original No. 18/2011-ST (COMMR.) dated 31.10.2011/ 09.11.2011 adjudicated the matter. The Commissioner in the Order-in-Original has given a categorical finding that wherever the Appellants receives grants-in-aid from Government Departments/Ministries, those grants-in-aid amounts cannot be subjected to service tax since they cannot be treated as 'consideration'. A small portion of Rs. 1,89,828/- was confirmed by the Commissioner and on appeal to this Tribunal, the same was confirmed only for an amount of Rs.26,847/- which was against the consideration received from the Government of Kerala for the Malampuzha project (50% amount received as advance for the project). Thus, the finding of the first Appellate authority for the subsequent period 2005-06 to 2009-10, that the Appellants are not liable to pay service tax on grants-in-aid received from Government departments/ministries, has attained finality. The learned Counsel further submits that it is settled law that department cannot take a different stand when the subsequent order passed in favour of the very same assessee has attained finality. Learned Counsel also draws our attention to the judgment of Hon'ble Supreme Court in the matter of **CCE, Mumbai Vs. Bigen Industries Ltd. - 2006 (197) E.L.T 305 (SC)** and submits that once the Revenue is

precluded from taking different stand once the earlier decision between the same parties on the same facts have attained finality.

8. As regarding Appeal No. ST/21754/2015, Learned Counsel submits that the First Appellate Authority confirmed the demand on the ground that the Appellant did not submit satisfactory evidence to prove that the said amount was in the nature of grant-in-aid. Ld Counsel draw our attention to the documentary proof submitted during the personal hearing on 15.03.2013 including the monthly details with the agreement and orders passed by the various departments of the Government/institutions for the entire grant-in-aid received by them during the period April 2010 to March 2011 and submits that the finding that the Appellants did not submit satisfactory evidence for the balance amount to prove that the amount received was in the nature of grant-in-aid is factually wrong. In this regard, learned Counsel submits that Appellant is getting the amount as a lumpsum and hence they have not collected Service Tax from the respective departments/Ministries. The Learned Counsel draws our attention to the copy of the statement of grant-in-aid receipt for the period from April, 2010 to March 2011 and submits that out of five demands as per the following chart, the service provided to Water Resource Department for study on the environmental impact in Malampuzha Reservoir is only falling under the category of 'taxable service' and liable to pay service tax of Rs. 2,87,500/-.

Sl. No.	Ministry/Department/Organisation	Name of the Project/Scheme	Amount Rs.
1	Indo-French Centre for the Promotion of Advanced Research (IFCPAR)	Paleointensity & Reunion/Marion	1,44,548/-
2	Kerala State Council for Science, Technology & Environment	Conducting 23 rd Kerala Science Congress	25,00,000/-
3	Indian Space Research Organisation (ISRO), Ahmedabad- Govt. of India	Rainfall Validation & Characterization and Cloud Physics Studies using the Megha-Tropics Data.	4,60,000/-
4	Indian Space Research Organisation (ISRO), Ahmedabad- Govt. of India	Optical Characterization of Coral Reef Diversity for understanding the impact of changing environmental conditions.	3,80,000/-
5	Water Resource Department- Govt. of Kerala	Study on the environmental impact assessment in Malampuzha Reservoir	2,87,500/-
TOTAL			37,72,048/-

9. Learned Counsel further submits that the demand confirmed for the period from 2002-03 to 2005-06 by invoking the extended period of limitation is also unsustainable. The appellant was under bona fide belief that they are not liable to pay service tax for the grant-in-aid received by them. However, impugned order is issued for the period from 2002-03 to 2005-06 based on the show-cause notice issued on 23.06.2008. Law is well settled that State/Central Government Entities cannot be held to be suppressing facts or willful misstated facts for evasion of service tax. In this regard, learned Counsel relied on the following decisions:

1. Rajasthan Renewable Energy Corpn. Ltd. Vs. CCE, Jaipur – 2017 (51) STR 269 (Tri.-Del.) affirmed by the Hon'ble High Court of Rajasthan CCE, Jaipur Vs. Rajasthan Renewable Energy Corpn. Ltd. – 2018 (15) GSTL 661 (Raj.)
2. CCE Vs. Nepa Ltd. – 2013 (298) E.L.T. 225 (Tri.-Del.)
3. CDAC Vs. CCE, Hyderabad – 2009 (14) STR 165 (Tri.-Bang.)

10. Learned AR reiterated the finding in the impugned order.

11. Heard both sides. As regarding the demand against the Appeal No. ST/21752/2015, we find that the entire demand is barred by limitation. Moreover, the service tax demanded on the amount is received as grant-in-aid and considering the evidence on record and following the ratio of the decision and also considering the decisions in Appellant's own case for the period, this demand is unsustainable.

12. As regarding demand against Appeal No. ST/21754/2015, we find that wherever the Appellants receives grants-in-aid from Government Departments/Ministries, those grants-in-aid amounts cannot be subjected to service tax since they cannot be treated as 'consideration'. Further considering the documentary proof for the grants-in-aid received along with the documents in support, we find that the impugned order confirming the demand is unsustainable.

Accordingly we set aside the demand and Adjudication authority is directed to consider the evidence produced by the appellant regarding grant-in-aid received by them and to exclude the amount of grant-in-aid from the consideration and to finalize the demand if any, in accordance with law.

13. Accordingly, Appeal No. ST/21752/2015 is allowed by setting aside the demand and penalty as per the impugned order. Appeal No. ST/21754/2015 is partially allowed by way of remand.

(Order pronounced in Open Court on 08.05.2026)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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