

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 42197 of 2016

(Arising out of Order-in-Original No. CBE/ST/26/2016-Commr. dated 29.07.2016 passed by Commissioner of Central Excise, Customs and Service Tax, No. 6/7, A.T.D. Street, Race Course, Coimbatore – 641 018)

M/s. NEPC Agro Foods Limited

NEPC Tea Garden, Kavarkkal Estate,
Waterfall Post, Valparai Taluk,
Valparai – 642 105.

...Appellant

Versus

Commissioner of GST and Central Excise

Coimbatore Commissionerate,
No. 6/7, A.T.D. Street,
Race Course,
Coimbatore – 641 018.

...Respondent

And

Service Tax Appeal No. 41307 of 2019

(Arising out of Order-in-Appeal No. CMB-CEX-000-APP-076/2019 dated 05.04.2019 passed by Commissioner of GST and Central Excise (Appeals), No. 6/7, A.T.D. Street, Race Course, Coimbatore – 641 018)

M/s. NEPC Agro Foods Limited

NEPC Tea Garden, 1678,
Trichy Road,
Ramanathapuram,
Coimbatore – 642 045.

...Appellant

Versus

Commissioner of GST and Central Excise

Coimbatore Commissionerate,
No. 6/7, A.T.D. Street,
Race Course,
Coimbatore – 641 018.

...Respondent

APPEARANCE:

For the Appellant : Mr. Ramesh T.R., Advocate
For the Respondent : Mr. Sanjay Kakkar, Authorized Representative
Ms. O.M. Reena, Authorized Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos. 40672-40673 / 2026

DATE OF HEARING : 24.03.2026
DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present two appeals have been filed by M/s. NEPC Agro Foods Limited, Coimbatore (hereinafter referred to as "the Appellant"). Appeal No. ST/42197/2016-DB arising out of Order-in-Original No CBE/ST/26/2016-Commr dated 29.07.2016 passed by the Commissioner of Central Excise, Coimbatore, (hereinafter referred to as the "Impugned Order1"), wherein demands of Service Tax under various categories, along with interest and penalties, were confirmed for the earlier period. Appeal No. ST/41307/2019-DB arising out of Order-in-Appeal dated 05.04.2019 passed by the Commissioner (Appeals), Coimbatore (hereinafter referred to as the "Impugned Order2"), whereby the demands confirmed by the adjudicating authority for the subsequent period were upheld. Both the impugned orders deal with identical issues and are therefore clubbed together for a common decision.

2. The brief facts are that the Appellant, engaged in tea plantation and owning estates at Mount Stuart and Waverly Estates, Valparai, entered into a Lease Agreement dated 30.10.2009 with M/s. Waterfall Estate Pvt. Ltd. for carrying out plantation activities. Pursuant to investigation,

multiple show cause notices were issued for the period November 2009 to June 2017 alleging liability under "Renting of Immovable Property Service", "Manpower Recruitment or Supply Agency Service" and "Supply of Tangible Goods Service", along with failure to discharge service tax, obtain registration and file returns. The demands, with interest under Section 75 and penalties under Sections 77 and 78, were confirmed by the adjudicating authority and upheld by the Commissioner (Appeals) for the later period.

3. Aggrieved by the impugned Orders 1 & 2, the Appellant has preferred the present appeals before this Tribunal.

4. The Ld. Advocate Shri T.R. Ramesh appeared on behalf of the Appellant and reiterated the submissions as recorded in the appeal memoranda and written submissions. The Ld. Authorized Representative Shri Sanjay Kakkar and Ms. O.M. Reena appeared on behalf of the Respondent/Department and supported the findings of the lower authorities.

5. The Ld. Advocate for the Appellant submitted that the entire demand is misconceived both on facts and in law, contending that the lease of tea estates under the

Agreement dated 30.10.2009 is purely for agricultural operations such as cultivation, harvesting and processing of tea leaves, and therefore falls within the exclusion relating to agriculture. It was argued that the dominant nature of the transaction is agricultural and that the presence of ancillary structures like labour quarters, offices and storage facilities does not alter the essential character of the land, particularly when the consideration is intrinsically linked to agricultural output, being dependent on the quantity of green tea leaves and auction price, thereby negating any element of commercial renting. The learned counsel further submitted that the Department has erred in artificially vivisecting a composite agricultural arrangement and attempting to tax individual elements, whereas the lease agreement constitutes an integrated arrangement for plantation activities. Reliance was placed on the judgment of the Hon'ble Supreme Court in Doypack Systems Pvt. Ltd. v. Union of India to contend that the expression "in relation to" is of wide amplitude and includes all activities integrally connected with agriculture, as well as on Tribunal decisions in CCE Kolhapur v. Yashwant SSK Ltd. and Raje Vijaysingh Dafale SSK Ltd. v. CCE Kolhapur to submit that in the absence of separate consideration and independent contracts, activities such as deployment of labour cannot be classified as manpower supply service. It was further

contended that no manpower was supplied by the Appellant, as the workers were under the control and supervision of the lessee and wages were paid in compliance with statutory obligations, with no consideration received for any such alleged service; similarly, there is no evidence of transfer of possession or effective control of machinery such as tractor, nor any separate consideration to sustain the demand under supply of tangible goods. On limitation, it was submitted that the entire demand is barred by limitation, as all material facts were disclosed through a lease agreement and the issue is purely interpretational, with no suppression, fraud or wilful misstatement, and therefore the extended period as well as penalties under Sections 77 and 78 are not invocable. The Appellant accordingly prayed for setting aside the impugned demands along with interest and penalties.

6. The Ld. Authorized Representatives for the Department supported the findings of the adjudicating authority in the first appeal and the Commissioner (Appeals) for the later period, contending that the Appellant had leased not merely agricultural land but also buildings, labour quarters, offices, machinery and other infrastructure, thereby rendering taxable services under "Renting of Immovable Property Service", and that the presence of such assets takes the transaction outside the scope of agricultural

exclusion. It was further submitted that the Appellant continued to be the employer of plantation workers and facilitated their deployment to the lessee, thereby rendering "Manpower Recruitment or Supply Agency Service", with payment of wages and continuation of employer-employee relationship evidencing supply of manpower for consideration. In respect of tractor and related facilities, it was argued that the Appellant had provided tangible goods for use without transferring ownership, attracting "Supply of Tangible Goods Service". The Department also contended that the Appellant had failed to discharge service tax, obtain registration and file returns despite rendering taxable services. On limitation, it was submitted that the Appellant had suppressed material facts with intent to evade payment of tax, and that extended period was rightly invoked as the activities came to light only upon investigation; accordingly, the demands along with interest and penalties were correctly confirmed and the appeals deserve to be rejected.

7. Heard both sides.

8. Upon consideration of the records and rival submissions, the following issues arise for determination: -

- i. Whether the leasing of tea estates along with appurtenant structures by the Appellant constitutes

“Renting of Immovable Property Service” or is excluded as a service relating to agriculture under the Finance Act, 1994.

- ii. Whether the activities relating to payment of wages and deployment of workers amount to “Manpower Recruitment or Supply Agency Service”.
- iii. Whether the provision of tractor and related facilities amounts to “Supply of Tangible Goods Service”.
- iv. Whether the demands are sustainable on limitation and whether penalties are imposable.

9. We now proceed to examine the issues arising for determination in the light of the statutory framework under the Finance Act, 1994, the applicable notifications, the factual matrix of the case, lease agreement dated 30.10.2009, the show cause notices, the impugned orders and the judicial precedents relied upon. Since all the first three issues arise out of the same lease arrangement and involve classification of activities sought to be artificially segregated by the Department, they are taken up together for comprehensive determination.

Issue (i) to (iii): Whether the activities are taxable under various service categories or constitute a composite agricultural transaction

10. The case of the Department is that the Appellant has rendered taxable services under the categories of "Renting of Immovable Property Service", "Manpower Recruitment or Supply Agency Service" and "Supply of Tangible Goods Service", on the ground that the lease involved not only land but also buildings, labour, machinery and other facilities. The Appellant, on the other hand, has consistently contended that the entire arrangement is a composite agricultural transaction for plantation activities and cannot be vivisected for the purpose of taxation.

11. On perusal of the lease agreement, we find that the estates were leased specifically for plantation activities including cultivation, application of fertilizers, irrigation, harvesting and processing of green tea leaves. The agreement clearly casts responsibility on the lessee to carry out agricultural operations and bear the associated costs. The lease consideration is directly linked to agricultural output, being computed on the basis of quantity of green leaf harvested and auction price, which clearly establishes that the transaction is in the nature of agricultural revenue sharing rather than commercial renting.

12. It is relevant to note that prior to the introduction of the negative list regime, exemption was

granted to services relating to agriculture under Notification No. 6/2005-ST as amended by Notification Nos. 4/2007-ST and 8/2008-ST. With effect from 01.07.2012, the said notifications stood superseded by Notification No. 33/2012-ST, and agricultural activities were placed in the negative list under Section 66D. Thus, the legislative intent, both under the exemption regime and the negative list regime, has consistently been to exclude agricultural activities from the purview of Service Tax.

13. We find that the tax demand in the present case spans across two distinct service tax regimes, namely the pre-negative list regime prior to 01.07.2012 and the post-negative list regime introduced thereafter, each governed by a different statutory framework. Under the pre-negative list regime, Section 65(105)(zzzz) of the Finance Act, 1994 defined taxable service in relation to renting of immovable property as any service provided or to be provided to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course or furtherance of business or commerce. Thus, even under the said provision, the essential requirement was that the property must be used for business or commercial purposes. In the present case, the leasing of tea estates is for plantation activities, which are agricultural

in nature and in general not considered to be in the course or furtherance of business or commerce, and therefore does not satisfy the basic condition of the definition itself. With effect from 01.07.2012, Section 66D of the Finance Act, 1994 introduced the negative list, thereby excluding such services from the levy of Service Tax.

14. At this stage, it becomes necessary to examine the scope of the expression "in relation to", which is central to determining whether incidental elements can alter the nature of the transaction.

15. The Appellant has placed reliance on the judgment of the Hon'ble Supreme Court in *Doypack Systems Pvt. Ltd. v. Union of India*, 1988(36) ELT 201(SC) wherein it has been held that: -

....."The expressions "pertaining to", "in relation to" and arising out of, used in the deeming provision, are used in the expansive sense, as per decisions of courts, meanings found in standard dictionaries, and the principles of broad and liberal interpretation in consonance with Article 39(b) and (c) of the Constitution [Para 46]
"The expression "in relation to" (so also "pertaining to"), is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context..." [Para 48]

We find that the Hon'ble Supreme Court has thus authoritatively held that such expressions "in relation to" used therein is of wide amplitude and are words of comprehensiveness and include both direct and incidental

activities having nexus with the principal subject matter. Applying the said principle, it is evident that not only core agricultural operations such as cultivation and harvesting, but also all ancillary and incidental activities connected therewith, would fall within the scope of services in relation to agriculture. Applying the above principle, we find that all elements of the lease arrangement, including provision of land, infrastructure, labour quarters and machinery, are integrally connected with plantation activities and cannot be artificially segregated. The attempt of the Department to vivisect the composite transaction into multiple taxable services is thus contrary to the law laid down by the Hon'ble Supreme Court. Therefore, whether under the pre-negative list regime or the post-negative list regime, the leasing of tea estates along with incidental infrastructure, labour and machinery, being in relation to and forming part of agricultural operations, cannot be subjected to Service Tax. The attempt of the Department to classify the same under different taxable categories is contrary to the statutory scheme and the law laid down by the Hon'ble Supreme Court.

16. Having held that the entire arrangement constitutes a composite agricultural activity, the individual heads of demand are examined in the above legal context.

17. Insofar as the demand under "Renting of Immovable Property Service" is concerned, we find that the leasing of tea estates is intrinsically connected with agricultural operations. We further find that even for the period prior to 01.07.2012, although "Renting of Immovable Property Service" was a specified taxable service, activities in relation to agriculture were exempted under Notification No. 6/2005-ST as amended by Notification Nos. 4/2007-ST and 8/2008-ST. The said exemption covered services in relation to agricultural operations and was intended to exclude such activities from the levy of Service Tax. In the present case, the leasing of tea estates is not in the nature of commercial renting but forms part of a composite arrangement for plantation activities, and the land, along with incidental infrastructure, is used exclusively for agricultural purposes. Therefore, the activity of leasing, being in relation to agriculture, would fall within the scope of the aforesaid exemption and would not be liable to Service Tax even under the category of "Renting of Immovable Property Service" during the pre-negative list regime.

18. For the period after 1.7.2012, we find that the leasing of tea estates is intrinsically connected with agricultural operations and is squarely covered by the exclusion under Section 66D. The presence of buildings and

infrastructure, being incidental to plantation activities, does not alter the essential character of the transaction. The schedules to the lease deed show that the buildings comprise labour lines, staff quarters, dispensary, creche and similar facilities, which are inherently incidental to plantation activities and cannot be treated as commercial infrastructure for the purpose of taxation.

19. With regard to the allegation of "Manpower Recruitment or Supply Agency Service", we find that the essential ingredients of the service, namely provision of manpower for consideration with control and supervision vesting in the recipient, are not satisfied. The workers were engaged in agricultural operations and were under the control of the lessee. There is no evidence of any separate consideration for supply of manpower. The lease agreement specifically provides that all costs relating to wages, statutory benefits and labour welfare are to be borne by the lessee, which clearly demonstrates that there is no supply of manpower by the Appellant. The agreement further provides that the lessee shall have absolute and unfettered rights over the estate and that even the manager placed by the lessor shall not interfere in day-to-day operations, thereby conclusively establishing that control and supervision of workers rests entirely with the lessee. This position would

hold good not only under the negative list regime but also for the period prior to 01.07.2012, as the activity, being in relation to agricultural operations, was not liable to service tax even under the exemption notifications then in force.

We also note that the Department has relied upon certain payment details such as expenditure towards labour, wages, bonus, statutory dues and the use of tractor/machinery to allege provision of manpower supply and supply of tangible goods services. However, these amounts are merely operational expenses incurred by the lessee in the course of carrying out plantation activities and do not constitute consideration flowing to the Appellant. The lease agreement clearly provides that the responsibility for labour engagement and payment of wages and statutory dues rests entirely with the lessee, and there is no evidence of any separate consideration received by the Appellant for supply of manpower. The Department has thus erroneously treated such expenditure as consideration for independent services, whereas in fact they form part of a composite agricultural arrangement, and therefore cannot be relied upon to sustain the impugned demands.

20. The Appellant has also relied upon the following case laws of the Tribunal in *CCE Kohlapur Vs Yashwant SSK Ltd. 2017(49) STR 463 (Tri-Mum)* wherein it was held that: -

"Under this agreement the factory premises were used and payment of salary etc. to the employees were made directly. It is on record that the respondent herein did not receive any consideration from the users of manufacturing facility; Revenue has not contraverted this factual finding of the adjudicating authority. On this factual findings if the respondent did not receive any amount from any one, for the use of manufacturing facility as well as all the employees, question of taxing the services will not arise is the correct finding recorded by the adjudicating authority. We find that there is no reason for interfering in such a reasoned order passed by the adjudicating authority.

6. The impugned order is upheld and the appeal is rejected as devoid of merits."

and *Raje Vijaysingh Dafale SSK Ltd. Vs CCE Kohlapur, 2015(38) STR 1056(Tri-Mum)*, wherein it has been held in

Para 5 that

".....The lessor is the bank and the lessee is M/s. Rajaram Bapu Patil SSK Ltd. The appellant is the borrower. As per the said agreement, the lessor being a secured creditor had taken over the factory of the borrower under Section 13(2) of the SARFAESI Act, 2002 to recover its dues and has leased out the factory of the borrower to the lessee. As part of the agreement, the lessee has undertaken to continue the services of the persons who were on the muster rolls of the borrower as permanent employees and the lessee was required to pay salaries/wages to the employees directly. Therefore, it cannot be said that the appellant has provided any service by way of manpower supply to the lessee. In any case, the salaries/wages were paid directly to the employees/workers and the appellant has not received any consideration for any services rendered. Therefore, the question of demanding any service tax in the absence of a consideration will not arise at all. "

21. We have carefully perused the above decisions and find that the ratio laid down therein squarely applies to the facts of the present case. In both the decisions, the Tribunal has emphasized that where the employees are engaged in the operations of the lessee, the wages are paid

directly by the lessee, and no consideration flows to the lessor, the essential ingredient of "service", namely consideration, is absent and the activity cannot be classified as manpower supply service. In the present case also, as borne out from the lease agreement, the entire responsibility of engaging labour, payment of wages and statutory compliances rests with the lessee, and there is no evidence of any separate consideration flowing to the Appellant for supply of manpower. Therefore, following the ratio of the above decisions, we hold that the demand under the category of "Manpower Recruitment or Supply Agency Service" is not sustainable.

22. Similarly, in respect of "Supply of Tangible Goods Service", we find that there is no evidence of transfer of possession or effective control of the tractor or any machinery to the lessee. The use of such equipment is incidental to agricultural operations and forms part of the composite arrangement. There is no clause indicating transfer of possession of machinery, nor is there any separate consideration identifiable for such alleged supply. Accordingly, the essential ingredients required for classification under "Supply of Tangible Goods Service" are not satisfied. We further hold that such activity is not liable to Service Tax even under the pre-negative list regime, as it

forms part of a composite agricultural arrangement covered by the exemption notifications then in force, and equally, under the post-negative list regime, the same is excluded from tax as a service in relation to agriculture under Section 66D of the Finance Act, 1994.

23. In view of the foregoing analysis of the lease agreement, the statutory framework and the judicial precedents, we hold that the entire arrangement entered into by the Appellant constitutes a composite and indivisible agricultural transaction for plantation activities. The dominant nature of the activity being agricultural, all ancillary elements such as buildings, labour and machinery are integrally connected with and "in relation to" such agricultural operations and cannot be artificially segregated for the purpose of taxation. Accordingly, we hold that the activity cannot be classified under "Renting of Immovable Property Service", inasmuch as the leasing of tea estates is squarely covered by the exclusion under Section 66D of the Finance Act, 1994. We further hold that the essential ingredients required for classification under "Manpower Recruitment or Supply Agency Service" are not satisfied, as there is no independent consideration for supply of manpower and the control and supervision of workers rests with the lessee. Similarly, the demand under "Supply of

Tangible Goods Service” is not sustainable in the absence of transfer of possession or effective control of machinery and in the absence of any separate consideration. We also find that the above conclusions would equally apply to the period prior to 01.07.2012, as the activities in question, being in relation to agricultural operations, were not liable to service tax even under the exemption notifications then in force, including Notification No. 6/2005-ST as amended. The demands raised under the aforesaid categories are thus based on an impermissible vivisection of a composite agricultural arrangement and are not sustainable in law. We, therefore, hold that issues (i), (ii) and (iii) are decided in favour of the Appellant on merits.

Issue (iv): Whether the demands are sustainable on limitation and whether penalties are imposable

24. Having held in the preceding paragraphs that the demands are not sustainable on merits, the question of examining the issues of limitation and imposition of penalties does not arise for detailed consideration. These issues, in the facts and circumstances of the present case, become largely academic in nature. We, therefore, do not consider it necessary to examine the same in detail. The demands having been set aside on merits, the issue stands conclusively decided in favour of the Appellant.

25. We further hold that the essential ingredients for classification under the aforesaid taxable service categories are not satisfied, as there is neither any independent consideration for such alleged services nor any material to establish that there is supply of tangible goods or provision of manpower under the control and supervision of the recipient; accordingly, the demands are set aside, and the issues relating to limitation, interest and imposition of penalties do not survive for consideration.

26. In the result, the impugned Order-in-Original dated 29.07.2016 and the Order-in-Appeal dated 05.04.2019 are set aside. Both the appeals filed by the Appellant are allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 02.06.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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