CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 21454 of 2015

(Arising out of Order-in-Original No.MYS-EXCUS-000-COM-JSC-017-14-15 dated 31.03.2015 passed by the Commissioner of Central Excise, Customs and Service Tax, Mysore.)

M/s. M. N. Associates
No.9/A, JTK Extn. 3rd Stage,
KHB Colony, Kuvempunagar,
Mysore – 570 023. — Appellant(s)

VERSUS

The Commissioner of Central Excise, Customs and Service Tax
Mysore Commissionerate,
S1/S2, Vinaya Marga, Siddhartha Nagar,
Mysore – 570 011. — Respondent(s)

WITH

Service Tax Appeal No. 21223 of 2018

(Arising out of Order-in-Appeal No.MYS-EXCUS-000-APP-013-18-19 dated 07.05.2018 passed by the Commissioner of Central Tax (Appeals), Mysore.)

M/s. M. N. Associates
No.9/A, JTK Extn. 3rd Stage,
KHB Colony, Kuvempunagar,
Mysore – 570 023. — Appellant(s)

VERSUS

The Commissioner of Central Excise, Customs and Service Tax
Mysore Commissionerate,
S1/S2, Vinaya Marga, Siddhartha Nagar,
Mysore – 570 011. — Respondent(s)

AND

Service Tax Appeal No. 20403 of 2020

(Arising out of Order-in-Appeal No.MYS-EXCUS-000-APP-MSC-096-2019-20 dated 13.03.2020 passed by the Commissioner of Central Tax (Appeals), Mysore.)

M/s. M. N. Associates
No.9/A, JTK Extn. 3rd Stage,
KHB Colony, Kuvempunagar,
Mysore – 570 023.

Appellant(s)

The Commissioner of Central Excise, Customs and Service Tax
Mysore Commissionerate,
S1/S2, Vinaya Marga, Siddhartha Nagar,
Mysore – 570 011.

Respondent(s)

APPEARANCE:

Shri N. Anand, Advocate for the Appellant.

Shri Malatesh S. Kulkarni, Assistant Commissioner (AR) for the Respondent.

CORAM:

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

FINAL ORDER NOS. 20810 - 20812 /2026

DATE OF HEARING: 01.06.2026

DATE OF DECISION: 07.07.2026

PER: R. BHAGYA DEVI

These three appeals are filed by M/s. M. N. Associates, the details of which are as tabulated below:

(Amount in Rupees)

Appeal Ref.	Period	ST Demand		Penalty(s)
ST/21454/2015	Oct 2010 to July 2013	11,17,920/-	Works contract	2,44,16,679/- (u/s 78)
		2,32,92,355/-	Real Estate Agent	
		6,404/-	GTA	
ST/21223/2018	August 2013 to December 2015	16,05,217/-	Works contract	16,05,217/- (u/s 78)
ST/20403/2020	January 2016 to June 2017	6,15,987/-	Works contract	6,15,987/- (u/s 78)

2. Briefly the facts are that the Appellant is a partnership firm registered under the Indian Partnership Act, 1932 and are engaged in the activities of real estate development such as purchase and sale of land, development of residential layouts and other incidental activities such as conversion of agricultural land(s) to non-agricultural purposes, etc. During the period of dispute, the Appellant had entered into Agreement on 15.09.2005 with M/s. The Jnanaganga House Building Co-operative Society Limited, a society registered under the Karnataka Cooperatives Act, to purchase, develop and sale of land, which was amended subsequently to increase the extent of land to be procured, developed and sold to the society. The Revenue in all these appeals, raised 3 issues; one being that the appellant had not paid service tax on the services rendered by them as 'Real Estate Agency Services'; secondly that the appellant had paid service tax on 30% of the value on 'Works Contract Services' claiming 70% as abatement. However, objecting to it, the Revenue in terms of Rule 2A(i) of Service Tax (Determination of Value) Rules, 2006 alleged that appellant is liable to pay service tax on 40% of the total amount charged, and the third issue is with regard to levy of service tax on Goods Transport Agency (GTA) services. Hence, show-cause notices

were issued demanding service tax based on the above alleged irregularities. The Commissioner/Commissioner (Appeals) in the impugned orders considering the agreement and all other relevant factors, confirmed the demand of Service Tax along with interest and also imposed penalty under Section 78 of the Finance Act, 1994. Aggrieved by these orders, the appellant is in appeal before us.

3. The Learned Counsel referring to the demand of service tax under the category of "Real Estate" vide section 65(105)(v) read with Sections 65(88) and 65(89) of the Finance Act, 1994 submits that the demand is untenable inasmuch as the transactions between the appellant and its customer is purchase and sale of immovable property itself, which is not amenable to levy of service tax. He submits that the appellant had entered into Agreement dated 15.09.2005 read with amended Agreement dated 15.12.2008 with M/s. The Jnanaganga House Building Co-operative Society Ltd. for purchase, develop and sale of land. The transaction between the appellant and the said Society was to purchase, develop and sale of land/immovable property *simpliciter,* the transaction in question is basically that of purchase and sale of land by the appellant to the Society and subsequent activities for development land so sold. There has been transfer of property in the land/immovable property from the Appellant to the Society and the activity of purchase and sale of land between two parties cannot be construed as "service" but is a sale of immovable property; thus, does not fall under "Real Estate Agent" as defined in Section 65(88) of the Finance Act 1994 and consequently, the taxable service definition vide Section 65(105)(v) is not attracted.

3.1 Further, it is submitted that the appellant being a partnership firm is prohibited to acquire/purchase any agricultural land in the State of Karnataka in terms of the provisions of the Karnataka Land Reforms Act, 1961 as it stood during the period of dispute; hence, the appellant had purchased/acquired agricultural lands through Power of Attorney viz., through creation of agency in the form of Memorandum of Understanding (MoU) dated 25.11.2006 with an individual. The said MoU dated 25.11.2006 between the appellant and the individual (Sri B. Sathisha) is in the nature of Power of Attorney (PoA) by which it has created an agency between the appellant and the individual (Sri B. Sathisha) whereby the appellant (grantor) has authorised the grantee (Sri B. Sathisha) to do the acts specified therein, on behalf of the grantor viz.,

(i) to purchase agricultural lands for and on behalf of the appellant,
(ii) to get the agricultural lands converted from agricultural purposes to residential purposes for and on behalf of the appellant and
(iii) subsequent sale of converted lands to the Society for and on behalf of the appellant (through PoA, Sri B. Sathisha).

It is also submitted that it is the appellant who had paid land conversion charges directly to the MUDA authorities which is also recorded in the Sale Deed duly registered and stamped.

3.2. The Learned Counsel also submits that the appellant had taken all necessary steps for preparation of layout plan and obtain necessary permission/approvals from the municipal authorities and it is the Appellant who incurred expenditure for the same. All the payments are made by the appellant out of its

own resources and also from the advance amounts paid by the Society. Thus, the entire transaction of sale and transfer of land from the appellant to the Society is on "principal-to-principal" basis. The appellant has not acted as "Real Estate Agent" and there is no commission either agreed upon or earned by him, hence, the transaction in question does not fall within the purview of section 65(105)(v) r/w section 65(88)/(89) of the Act.

3.3 Further, he submits that the books of account maintained by the appellant are statutorily audited and filed with the Income Tax authorities as per law. The Balance Sheet and Profit and Loss Account were duly audited by the statutory auditors, the appellant had accounted purchase of land as investment till it was sold to the Society and on execution of Sale Deed evidencing sale of land, the income earned from sale and transfer of land is declared and assessed to income-tax as "income from transfer and sale of land" which is also assessed and accepted by the Income Tax authorities under the provisions of the Income tax Act, 1961. There is no commission income either earned or accounted and assessed under the Income tax Act, 1961. The impugned orders are, therefore, contrary to the said documentary evidence on record. He further states that the Society is the purchaser of the land and they are not service recipient inasmuch as they have not engaged the appellant to be their "agent" to provide service "in relation to" sale or purchase of land. On the contrary, the Society has entered into an agreement with them to purchase the land post-conversion from agriculture purposes into residential purposes; thus, the relationship between the Society and them is that of – buyer and seller of converted land.

3.4 Referring to the judgment of the Hon'ble Delhi High Court in the case of **Home Solution Retail India Ltd v. UOI: 2009 (41) STR 433 (Del.)** wherein in the context of "renting of immovable property", the Hon'ble High Court held that "only services in relation to renting" alone are taxable and not "renting" *per se* which is not a service, submits that they cannot be categorized under "Real Estate Agent". It is further submitted that the issue is no longer *res integra* and is settled in their favour as per the judgment of the Hon'ble Supreme Court in the case of **CST v. Elegant Developers, 2025-TIOL-83-SC-ST** wherein the Hon'ble Apex Court while affirming the decision of this Tribunal in **Elegant Developers v. CST: 2019 (29) GSTL 477 (Tri-Del.)** held as under –

> "38. Thus, for a person to be covered under the definition of 'Real Estate Agent', there must be attributable to such person, an act of rendering service. The section does not cover a direct transaction of sale and/or purchase inter se between two individuals or entities, as the case may be. Likewise, 'Real Estate Consultant' is a person who renders services in form of advice, consultancy or technical assistance for the purposes as set out in Section 65(89) of the Finance Act, 1994. The common thread passing through both the provisions is that the person concerned must be engaged in rendering of services, advice, consultancy or technical assistance for sale and purchase of land or for development, construction, evaluation, conception, etc. of real estate.
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> 39. It is only the contract of agency inter se between the service provider or the consultant, as covered under Sections 65(88) and 65(89) of the Finance Act, 1994, and the principal engaging such service provider or the consultant, for the purpose specified in these two sections, which establishes the agency relationship. The consideration paid for the services or the consultancy provided under such contract in form of commission or otherwise, would be

the taxable event as defined under Section 65(105)(v) of the Finance Act, 1994.

3.5 The learned Counsel also relied on the following decisions:

(a) ***CCE v. Viraj Estates Pvt Ltd,*** **2017 (5) GSTL 386 (Tri-Mum.).**
(b) ***Premium Real Estate Developers v. CST,*** **2019 (22) GSTL 373 (Tri-Del.).**
(c) ***Sarjan Realties Ltd v. CCE,*** **2014 (36) STR 877 (Tri-Mum.).**

3.6 With regard to the demand of differential service tax under the category of "Works Contract" by invoking Rule 2A(ii) of the Service Tax (Determination of Value) Rules, 2006, it is submitted that the appellant had entered into separate agreement/work orders with the Society for development and formation of residential layout for the Society, post-execution of Sale Deed for sale and transfer of converted land. As the activity of development and formation of residential layout as per approved plans involves supply of goods and materials as also labour, which is construed as "composite works contract", they had duly registered as "works contract dealer" in terms of the provisions of the Karnataka Value Added Tax Act, 2003 (VAT TIN-29490667539) and paid VAT on the "actual value of goods and materials involved" and paid service tax on "actual labour/service value". It is further submitted that they had determined actual value of labour/service portion which is 30%, 40%, 70%, 48%, 77%, 72%, etc., as per books of accounts. In some cases, they paid VAT on 70% towards value of goods and materials and balance 30% towards labour charges in terms of Section 4(1)(c) of the KVAT Act, 2003 read with Rule 3(2)(m) of the KVAT Rules, 2005 and rightly paid service tax on the "actual labour/service portion" involved as per rule 2A(i) of the Service Tax (Determination of Value) Rules, 2006. It is his submission that the Department has picked up only those labour

bills/invoices involving 30% of gross value, conveniently ignoring those labour bills/invoices which are more than 40% on which they had paid service tax. This pick and choose method adopted by the Revenue and confirming differential demand of tax only in respect of 30% labour bills, ignoring other labour bills which are more than 40% of the gross value, is not sustainable.

3.7 He further submits that the Revenue has not appreciated the scheme of taxation of "works contract" as per 46th Constitutional Amendment vide Article 366(29A)(b) of the Constitution read with two judgments of the Hon'ble Supreme Court in *Builders Association of India v. State of Karnataka,* [1993] 88 STC 248 (SC)=(1993) 1 SCC 409 and in *Gannon Dunkerley & Co v. State of Rajasthan,* [1993] 88 STC 204 (SC)=(1993) 1 SCC 364. It is submitted that as per the aforesaid scheme of taxation of "works contract", -

(a) Levy of service tax on works contract and determination of value as per rule 2A is a concept adopted from the Sales Tax provisions.

(b) 70%:30% ratio between value of goods and labour and service charges is as per section 4(1)(c) of the KVAT Act, 2003 read with Rule 3(2)(m) of the KVAT Rules, 2005.

(c) 70% value determined towards value of goods is nothing but "taxable turnover" as defined in section 2(34) of the KVAT Act, 2003 which is nothing but the turnover on which a dealer shall be liable to pay VAT/tax after making such deductions from his total turnover in the manner prescribed.

(d) Appellant has indeed paid VAT on 70% value which represented taxable turnover of transfer of property involved in the execution of works contract. This is evident from the tax invoice(s) read with VAT Returns filed by the Appellant with the jurisdictional KVAT Authorities.

(e) 30% deduction allowed towards labour and service charges under rule 3(2)(m) of the KVAT Rules, 2005 is not an "notional" or "arbitrary value" but is State Act/statute mandated deduction while determining the actual value of transfer of property of goods as held by the Supreme Court in *Builders Association of India v. State of Karnataka,* [1993] 88 STC 248 (SC)=(1993) 1 SCC 409 and in *Gannon Dunkerley & Co v. State of Rajasthan,* [1993] 88 STC 204 (SC)=(1993) 1 SCC 364.

(f) Under the State VAT laws, to determine the taxable value of works contract, either actual labour charges are allowed as deduction or in the absence of accounts the State is entitled to fix the percentage towards the labour charges. In the Appellant's case, under the KVAT Rules, 2005, the State Government has fixed 30% of the gross value towards labour and service charges in the absence of actual labour charges.

(g) Labour charges either actual or *ad-hoc* percentage notified by the State law is allowed as deduction while arriving at the value of transfer of property in goods involved in the execution of works contract on which VAT is levied/paid by the Appellant.

Hence, the value of goods and materials determined at 70% of the gross value on which undisputedly the KVAT Act, 2003 has levied VAT on the Appellant is required to be deducted as per Rule 2A(i) of the Service Tax (Determination of Value) Rules, 2006. Hence, the impugned orders are wholly untenable in invoking residuary Rule 2A(ii). Further, he submits that post 01.07.2012, the definition of "service" vide Section 65B(44) of the Act specifically excludes – six categories of "deemed sales" defined in Article 366(29A) of the Constitution. Hence, transfer of property in goods involved in the execution of a works contract is a category of "deemed sales" and it cannot be

construed as "service". In the Appellant's case, undisputedly, in terms of KVAT Act, 2003 read with KVAT Rules, 2005, 70% of the composite contract value is determined and assessed as "value of goods and materials" involved in execution of works contract and the Appellant has been paid VAT on 70% of the gross value. Hence, the said 70% of the value of goods cannot be construed as "service" as per Section 65B(44) read with Section 66E(h) of the Act and once VAT has been paid on 70% of the value as per VAT provisions, then the Revenue is not justified in invoking residuary Rule 2A(ii) of the Service Tax (Determination of Value) Rules of 2006. Referring to various decisions, it is submitted that the issue is no longer *res integra* and is settled in favour of the Appellant as per the following decisions, -

(a) Santech Engineers Pvt Ltd v. CST - F.O.No.21783/2025 dtd.14.08.2025 passed in appeal in **ST/21367/2015**

(b) Safety Retreading Co (P) Ltd v. CCE: 2017 (48) STR 97 (SC)

(c) Gokul Tyre Re-treaders v. CCE: F.O.No.20283/2025 dtd.18.02.2025 rendered by this Bench of the Tribunal.

(d) Imagic Creative Pvt Ltd v. CCT: 2008 (9) STR 337 (SC)

(e) Tyresoles India Pvt Ltd v. UOI: 2019 (367) ELT 537 (Bom.)

(f) Ocean Interior Ltd v. CGST: (2023) 10 Centax 208 (Tri-Mad.) affirmed by Apex Court in **CGST v. Ocean Interior Ltd.: (2023) 10 Centax 209 (SC)**

(g) CST v. Trio Elevators Co India Ltd: (2025) 31 Centax 215 (Tri-Ahmd.)

(h) Gainwell Commosales Pvt Ltd v. CCE, (2024) 22 Centax 9 (Tri-Cal.)

3.8 With regard to limitation, it is submitted that all the transactions are duly recorded and disclosed in the monthly returns filed by them and the show-cause notice which was issued entirely based on Audit by the department was based on the records maintained by them. Therefore, when entire transactions are duly disclosed in returns and the show-cause notice was issued on the basis of the audit of records maintained

by them, the department cannot allege suppression of facts; hence, penalty also does not arise. Reliance is placed on the following judicial decisions:-

(a) ***CST v. Elegant Developers,*** **2025-TIOL-83-SC-ST.**

(b) ***Continental Foundation Joint Venture v. CCE,*** **2007 (216) ELT 177 (SC).**

(c) ***Jaiprakash Industries Ltd v. CCE,*** **2002 (146) ELT 481 (SC).**

4. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the impugned orders and relied on the decision of this Bench in the case of *M/s. Raviteja Constructions Pvt. Ltd. vs. Commissioner of Central Excise, Bangalore-IV Commissionerate* vide *Final Order No.21781/2024 dated 19.12.2024*. It is submitted that the services rendered by the appellant falls under Real Estate Agency and they are liable to pay service tax on 40% of the gross value.

5. Heard both sides. Since the issues are common in all the three appeals, they are taken up together for a common decision. There are 3 issues one is on Goods Transport Agency (GTA), second on 'Real Estate Agency Services' and the third is on Valuation under the category of 'works contract'.

5.1 At the outset, we confirm the demand of service tax of Rs.6,404/- under the category of GTA services as the appellant has already paid the service tax at the time of audit and the demand is not being contested.

6. The second issue regarding 'Real Estate Agent services' pertains to only one appeal in Appeal No.ST/21454/2015 which is for the period October 2010 to July 2013. For the period prior to 30.06.2012, **'Real Estate Agent Service'** under Section 65(105)(v) of the Finance Act, 1994 was defined as 'taxable

service' means 'any service provided or to be provided to any person, by a real estate agent in relation to real estate'. The term **'Real Estate Agent'** was defined as means *'a person who is engaged in any service in relation to sale, purchase, leasing or renting of real estate and includes real estate consultant and real estate consultant means a person who renders in any manner, either directly or indirectly advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate.*

6.1. With effect from 01.07.2012 onwards, 'Real Estate Agent Service' was covered under Section 65B(44) of the Finance Act, 1994. From the records placed before us, we find that it is an admitted fact that the appellant cannot buy agricultural lands or hold the agricultural lands in their names in terms of the Karnataka Land Reforms Act, simply for the fact that only an agricultural land holder can purchase agricultural land. In view of the above, the appellant had purchased the agricultural lands in the name of Sri. B. Sathisha and it is on record that a Memorandum of Understanding (MoU) dated 01.06.2006 was signed by the appellant and Sri. B. Sathisha, the MoU referring to the above Karnataka Land Reforms Act, clearly states that land is acquired on behalf of the appellant in the name of Sri. B. Sathisha and it also declares and confirms that he is holding all the said lands in trust and for the benefit of the firm i.e., the appellant which has been registered with the authorities concerned on payment of necessary stamp duty. It is also on record that individual purchase agricultural lands are registered in the name of Sri. B. Sathisha and all these documents clearly provide that this is being done on behalf of M/s. MN Associates

the appellant. The only reason the Revenue brings these transactions into the category of 'Real Estate Agent Services' is on the ground that the land is not registered in the name of the appellant and there is no transaction in sale of property and therefore it is into sale and purchase of real estate to the society, which appears to be irrelevant since it is an admitted fact the entire process of purchasing agricultural land was done on behalf of the appellant in the name of Sri. B. Sathisha only to satisfy the Karnataka Land Reforms Act. We also find that there is no service as such rendered by the appellant and also the value considered by the Revenue also seems to be misplaced, since they have taken the difference between the consideration received for land transactions and the actual cost of land as per Sale Deed to be the service charges under the category of 'Real Estate Agent Services'. Since, there is no service and none of the conditions in the definition are satisfied, we do not find any reason to sustain the demand.

7. With regard to the third issue which is valuation on services rendered in the nature of 'Works Contract Services', the issue is common to all the appeals. We find that there is no dispute that the services rendered fall under 'Works Contract Services' but the only dispute is what should be the value of service portion. According to the appellant, as per Rule 2A of Service Tax (Determination of Value) Rules, 2006 extracted below, they have rightly discharged the service tax as per Rule 2A(i) only on the service portion of the gross value after excluding the value of the property.

> **"RULE 2A: Determination of value of service portion in the execution of a Work Contract-**

Subject to the provisions of section 67, the value of service portion in the execution of a works contract, referred to in clause (h) of section 66E of the Act, shall be determined in the following manner, namely:-

(i) Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.

Explanation: For the purposes of this clause,-

(a) gross amount charged for the works contract shall not include value added tax or sales tax, as the case may be, paid or payable, if any, on transfer of property in goods involved in the execution of the said works contract;

(b) value of works contract service shall include, -

(i) labour charges for execution of the works,
(ii) amount paid to a sub-contractor for labour and services;
(iii) charges for planning, designing and architect's fees;
(iv) charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;
(v) cost of consumables such as water, electricity, fuel used in the execution of the works contract;
(vi) cost of establishment of the contractor relatable to supply of labour and services;
(vii) other similar expenses relatable to supply of labour and services; and
(viii) profit earned by the service provider relatable to supply of labour and services;

(c) Where value added tax or sales tax has been paid or payable on the actual value of property in goods transferred in the execution of the works contract, then, such value adopted for the purposes of payment of value added tax or sales tax, shall be taken as the value of property in goods transferred in the execution of the said works contract for determination of the value of service portion in the execution of works contract under this clause.

> (ii) Where the value has not been determined under clause (i), the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the service tax payable in the following manner, namely:-
>
> (A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty per cent of the total amount charged for the works contract;
>
> (B) in case of works contract entered into for maintenance or repair or reconditioning or restoration or servicing of any goods, service tax shall be payable on seventy percent of the total amount charged for the works contract,
>
> (C) in case of other works contracts, not covered under sub-clauses (A) and (B), including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property, service tax shall be payable on sixty per cent. of the total amount charged for the works contract;

Appellants have discharged service tax on the service value as per Rule 2A(i), however the Revenue wants to charge service tax under the category Rule 2A(ii) demanding service tax on 40% of the total amount. It is the submission of the appellant that the department has picked up only those labour bills/invoices where service tax has been paid on 30% of gross value and demanded differential tax claiming 40% of tax value but their calculations have been accepted when the service tax has been discharged for more than 40% of the gross value, which itself shows the department has acknowledged their calculations and having done so, they cannot pick and choose as per their convenience.

7.1 Countering the above calculations, the stand of the Revenue is that the appellant has to pay service tax on the gross value since they could not determine the value under clause (i) of Rule 2A. We also find that in Appeal No. ST/21454/2015, the demand is calculated as shown in the table below:

Invoice no.	dated	Amount	percentage	Tax paid	Total (Inv.A + B)	40%	12.36%	Diff
11A	28.9.12	5643954	70	VAT				
11B	28.9.12	2418837	30	298968	8062791	3225116	398624	99656
12A	28.9.12	2754253	60	VAT				
12B	28.9.12	1836169	40	226950	4590422	1836169	226950	0
13A	26.2.13	3379143	70	VAT				
13B	26.2.13	7884667	30	974545	11263810	4505524	556883	-417662
15B	17.3.13	8978318	30	1109720				
15A	17.3.13	20949410	70	VAT	29927728	11971091	1479627	369907
16A	17.3.13	7168120	70	VAT				
16B	17.3.13	3072052	30	379706	10240172	4096069	506274	126568
19A	17.5.13	11962283	70	VAT				
19B	17.5.13	5126692	30	633659	17088975	6835590	844879	211220
20A	17.5.13	17588872	70	VAT				
20B	17.5.13	7538088	30	931708	25126960	10050784	1242277	310569
	Total Diff. amount payable							1117920

7.2 Similar calculations have been followed in other appeals for determining the differential service tax. As rightly pointed out by the appellant, the demand has been calculated only on those invoices where the service tax paid is on 30% of the value and the other invoices where service tax has been paid on the value more than 30%, has been accepted. For the same services, the Revenue cannot segregate and calculate the differential tax based on the percentages of the value without determining the serviced portion of the value of the services rendered by the appellant. Moreover, the above Rules quoted at para 7 clearly states that the value of service portion has to be determined after excluding the value of the goods and the calculations given by the appellant based on the value of the goods cannot be partially accepted according to the Revenue's convenience. Moreover, Rule 2A(ii) will come into picture only if the value cannot be determined under clause(i) of the said Rules and there is nothing on record to prove that why Rule 2A(i) has been rejected. We also find that service tax has been paid on preparation of layout plans, payments made for securing

approvals from the concerned authorities, hence we do not find any reason to confirm differential service tax amounts demanded by the Commissioner/Commissioner (Appeals in the impugned orders.

8. In view of the above, appeal No. ST/21454/2015 is partially allowed to the extent of confirming an amount of Rs. 6,504/- on GTA Services and all penalties are set aside and Appeal No.ST/21223/2018 and Appeal No.ST/20403/2020 are allowed.

(Order pronounced in Open Court on 07.07.2026.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv