

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

REGIONAL BENCH - COURT NO. 1

SERVICE TAX APPEAL NO.21220 OF 2016

(Arising out of Order-in-Appeal No. COC-EXCUS-000-APP-389 & 390-15-16 dated 21.03.2016 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals-I), Cochin-18)

**M/s. Hindustan Newsprint
Employees Co-Operative Bank Ltd.**
Newsprint Nagar, P.O. Velloor Kottayam,
Kottayam-686 616,
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)

WITH

SERVICE TAX APPEAL NO.21221 OF 2016

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APPEARANCE:

Mr. K. Hariharan, Chartered Accountant for the Appellant

Mr. Malatesh S Kulkarni, 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. 20815 - 20816 / 2026

DATE OF HEARING: 10.06.2026

DATE OF DECISION: 07.07.2026

PER: R. BHAGYA DEVI

These two appeals Appeal No. ST/21220/2016 and ST/21221/2016 have been filed by the appellant M/s. Hindustan Newsprint Employees Co-operative Bank Ltd. against Order-in-Appeal No. 389 & 390-15-16 dated 21.03.2016 passed by the Commissioner (Appeals-I), Cochin.

2. The appellants were rendering services under the category of Manpower Recruitment or Supply Agency Service and paid service tax on the services rendered by them; however, the Revenue alleging that the service tax had to be discharged on the entire gross amount including the workers' wages and other benefits that were received by the appellant. Accordingly, the show-cause notice was issued and the original authority confirmed the service tax demand which was upheld by the Commissioner (Appeals) in the impugned order on the ground that there is no statutory provision to provide abatement or reduction or exclusion of reimbursement expenses from the taxable value. Relying on the decisions of the Tribunal in the case of 2006 (3) STR 197 (Tri.-Del.) and 2006 STR 116 (Tri.-Del) upheld the demand of service tax. Aggrieved by these orders, the appellant is in appeal before us.

3. The Learned Counsel submits that in view of the Hon'ble Supreme Court judgement in the case of **Union of India**

Versus Intercontinental Consultants and Technocrats Pvt. Ltd.: 2018 (10) GSTL-401 (SC), the question of including the reimbursable amounts in the gross value for discharging the service tax does not arise; hence, he requested for setting aside the impugned order and allowing their appeals. He also relies on the decision of the of this bench vide Final Order No. 21765-21766/2024 dated 16.10.2024 in the appellant's own case to reiterate that service tax cannot be levied on the reimbursable amounts.

4. The Learned Authorised Representative (AR) reiterated the findings of the Commissioner (Appeals) in the impugned order.

5. Heard both sides. The Commissioner (Appeals) in the impugned order has confirmed the demand of service tax on the gross amount only on the ground that there is no provision to exclude the reimbursable amounts for levy of service tax. This issue is no longer *res integra* in as much as stands settled by the judgment of the Hon'ble Supreme Court in the case of **Union of India Versus Intercontinental Consultants and Technocrats Pvt. Ltd.** (supra) wherein the Hon'ble Supreme Court had categorically held that reimbursable amounts cannot form part of the gross value prior to 2015. The relevant paras are extracted below:

"29.Realising that Section 67, dealing with valuation of taxable services, does not include reimbursable expenses for providing such service, the Legislature amended by Finance Act, 2015 with effect from May 14, 2015, whereby Clause (a) which deals with 'consideration' is suitably amended to include reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service. Thus, only with effect from May 14, 2015, by virtue of provisions of Section 67 itself, such reimbursable expenditure or cost would also form part of valuation of taxable

services for charging service tax. Though, it was not argued by the Learned Counsel for the Department that Section 67 is a declaratory provision, nor could it be argued so, as we find that this is a substantive change brought about with the amendment to Section 67 and, therefore, has to be prospective in nature. On this aspect of the matter, we may usefully refer to the Constitution Bench judgment in the case of *Commissioner of Income Tax (Central)-I, New Delhi v. Vatika Township Private Limited* [(2015) 1 SCC 1] wherein it was observed as under :

"27. A legislation, be it a statutory Act or a statutory rule or a statutory notification, may physically consists of words printed on papers. However, conceptually it is a great deal more than an ordinary prose. There is a special peculiarity in the mode of verbal communication by a legislation. A legislation is not just a series of statements, such as one finds in a work of fiction/non-fiction or even in a judgment of a court of law. There is a technique required to draft a legislation as well as to understand a legislation. Former technique is known as legislative drafting and latter one is to be found in the various principles of "interpretation of statutes". Vis-a-vis ordinary prose, a legislation differs in its provenance, layout and features as also in the implication as to its meaning that arise by presumptions as to the intent of the maker thereof.

28. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bedrock that every human being is entitled to arrange his affairs by relying on the existing law

*and should not find that his plans have been retrospectively upset. This principle of law is known as *lex prospicit non respicit* : law looks forward not backward. As was observed in *Phillips v. Eyre* [(1870) LR 6 QB 1] , a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried on upon the faith of the then existing law.*

*29. The obvious basis of the principle against retrospectivity is the principle of "fairness", which must be the basis of every legal rule as was observed in *L'Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co. Ltd.* Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later."*

6. Further, in the appellant's own case, this Tribunal vide Final Order No. 21765-21766/2024 dated 16.10.2024 for the period from November 2005 to March 2009 has held in favour of the appellant in view of the above decision of the Hon'ble Supreme Court. The period of dispute in the present cases are from 01.04.2009 to 31.03.2012, which is much prior to the amendment to Section 67 of the Finance Act, 1994; hence, the above decision of the Hon'ble Supreme Court is relevant to the

present set of facts and the period of dispute. Accordingly, the impugned orders are set aside.

Appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 07.07.2026.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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