CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 20226 of 2014

(Arising out of **Order-in-Original** No. 66/2013-Adjn (Commr) S.T dated 10.10.2013 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad-IV)

M/s Software Technology Park of India .. APPELLANT
6Q3, 6th Floor, Cyber Towers,
Hi-tech City, Madhapur,
Hyderabad,
Telangana – 500 081.

VERSUS

Pr. Commissioner of Central Tax .. RESPONDENT
Rangareddy – GST
H.NO. 1-98-7-43, VIP Hills,
Jaihind Enclave, Madhapur,
Tilak Road, Ramkoti,
Hyderabad,
Telangana – 500 081.

AND

Service Tax Appeal No. 30531 of 2016

(Arising out of **Order-in-Appeal** No. HYD-EXCUS-004-APP-0006-15-16-ST dated 12.04.2016 passed by Commissioner of Service Tax (Appeals), Hyderabad)

M/s Software Technology Park of India .. APPELLANT
6Q3, 6th Floor, Cyber Towers,
Hi-tech City, Madhapur,
Hyderabad,
Telangana – 500 081.

VERSUS

Pr. Commissioner of Central Tax .. RESPONDENT
Rangareddy – GST
H.NO. 1-98-7-43, VIP Hills,
Jaihind Enclave, Madhapur,
Tilak Road, Ramkoti,
Hyderabad,
Telangana – 500 081.

APPEARANCE:

Shri B.L. Narasimhan, Advocate for the Appellant.
Shri A. Rangadham, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30467-30468/2026

Date of Hearing: 09.07.2026
Date of Decision: 25.08.2026

[ORDER PER: ANGAD PRASAD]

These two appeals involve a common issue and are, therefore, being disposed of by this common order. The dispute relates to levy of Service Tax on the charges collected by the appellant, M/s Software Technology Parks of India (STPI), inter alia, towards certification of SOFTEX forms and issuance of No objection Certificates (NoCs) which have been classified by the Department under "Business Support Service" under the Finance Act, 1994.

2. In appeal no. ST/20226/2014, the dispute pertains to the period from 2007-08 to 2011-12 and involves service tax of Rs. 5,15,53,520/- along with interest and penalties. In appeal no. ST/30531/2016, relating to the period April 2012 to June 2012 service tax of Rs. 2,06,792/- along with interest and penalties was confirmed. The Commissioner (Appeals), in the later appeal, upheld the demand while extending cum-tax benefit.

3. The appellant is an autonomous society registered under the Societies Registration Act, 1860 and functions under the administrative control of the Department of Electronics and Information Technology, Government of India. It has been established, inter alia, to administer and facilitate implementation of the Software Technology Park Scheme. The appellant is separately registered with the Service Tax Department and admittedly pays service tax on various services such as renting of immovable property, bandwidth services, co-location services and project consultancy. The present controversy is confined to the charges collected in connection with certain activities under the STP Scheme, particularly certification of SOFTEX forms and issuance of NoCs.

4. Learned Counsel for the appellant submits that certification of SOFTEX forms and issuance of NoCs are statutory functions entrusted to STPI under

the Foreign Trade Policy, FEMA and the relevant RBI Circulars. It is contended that such functions cannot be regarded as services rendered in relation to business or commerce. Reliance is also been placed upon Board Circular Nos. 89/2006-ST dated 18.12.2006 and 96/07/2007-ST dated 23.08.2007 to submit that activities performed by a foreign or Public authority in discharge of statutory duties, against collection of statutory fees, are not liable to service tax.

5. The appellant further submits that merely because STPI is constituted as a Society does not take away the statutory nature of the functions performed by it and that the charges are prescribed and controlled by its Governing Council headed by the concerned Minister of the Government of India. The appellant relies on the following case laws:

(i) Chandigarh Transportation Corporation Vs CCE, Chandigarh
[2023 97) TMI 363 – CESTAT Chandigarh]

(ii) Karnataka Industrial Areas Development Board Vs CCT, Bangalore [2020-TIOL-860-CESTAT-BANG]

(iii) Instrumentation Ltd., CCE & ST, Lucknow
[2016 (45) STR 182 (Tri-All)]

(iv) United Telecoms Ltd., Vs CST, Bangalore
[2020-TIOL-811-CESTAT-BANG]

(v) Central Power Research Institute Vs CCE, Bangalore-III
[2006 (3) STR 637 (T) – affirmed in 2010 (17) STR J25 (Kar)]

6. Learned AR reiterates the impugned order, inter alia, that STPI is admittedly an autonomous society and not a department of the Central Government. The services in question are rendered to STP units for facilitating and supporting their export business and the charges are collected from such units in consideration of the services rendered.

7. It is further submitted that the charges are neither a tax nor a compulsory statutory levy deposited into the Consultation Fund or Government Treasury. The amount is retained by STPI and utilised towards its administrative and establishment expenditure. Therefore, the appellant does not satisfy the conditions contained in the Board circular relied upon by it.

8. Heard both the sides and perused the records with their written submissions.

9. The main issue for determination is whether impugned activities undertaken by the appellant constitute taxable business support services, or whether they are sovereign/statutory functions outside the scope of service tax.

10. It is not in dispute that STPI is incorporated and registered as a society under the Societies Registration Act. Though it functions under administrative control of the Central Government and performs functions under the STP Scheme, it does not thereby become a Department of the Government. The mere fact that an activity is regulated by law or that an organisation has been authorised by Government to perform the activity does not, by itself, convert every such activity into a sovereign function. A distinction has to be maintained between an activity which can only be performed by the State in exercise of sovereign authority and a service rendered by an autonomous body for facilitating the business operations of its clients or members. In the present case, the certification of SOFTEX forms, issuance of NoCs, and other assistance rendered to STP units are intrinsically connected with the business activities of software exporters. Such certification and approvals facilitate their experts, foreign exchange

realisation and compliance with the regulatory framework. The appellant is therefore, providing assistance and support which enables the concerned units to carry on their business and export activities. The services squarely have a nexus with business or commerce and are covered by the scope of business support service as applicable during the material period.

11. The appellant has strongly relied upon Circular No. 96/7/2007-ST dated 23.08.2007. However, the said circular does not advance the appellant's case. The circular contemplates activities assigned to and performed by sovereign/public authorities under law where the amount collected for performing such functions is in the nature of a compulsory statutory levy and is deposited into the Government account. It is in such circumstances that the activity would not be regarded as a taxable service. In the present case, the appellant has not established that the amounts collected by it towards SOFTEX certification and other services constitute a compulsory levy under any statute. Neither the Foreign Trade (Development and Regulation) Act nor FEMA has been shown to prescribe impugned amount as a statutory levy payable to the Government. On the contrary, the appellant's own submission disclose that the charges are credited to separate fund maintained by STPI and are utilised towards its establishment and administrative expenditure. The amounts are, therefore, not deposited into the Government Treasury as a tax, cess, fee or compulsory exaction belonging to the Government.

12. The fact that the charges may have been approved by the Governing Council of STPI does not alter their character. Approval of a fee by a Governing body of an autonomous society cannot be equated with a statutory levy imposed by Parliament or under Authority of a Statute.

13. We also find no merits in the contention that since the certification can be performed only by the designated authority, the activity necessarily assumes sovereign character. Exclusivity or statutory authorisation to perform a particular activity is not, by itself, decisive. The relevant question is whether the amount collected is a sovereign/statutory extraction or consideration for an identifiable service rendered to a beneficiary. In the present case, there is a clear and direct relationship between the activity undertaken by STPI, the recipient STP/exporting unit and the charges collected. The concerned units of certification, NoCs and related facilitation from STPI for carrying of their export business and the appellant receives a specified charges in return. The essential ingredients of taxable service are, therefore, satisfied.

14. We therefore observe that the appellant itself undertakes several taxable activities and pays service tax thereon. Thus, its status as an organisation functioning under a Ministry does not grant it a general immunity from service tax. Each activity has to be examined independently on its own nature. Reliance placed on the decision relating statutory levies collected by Public Authorities also does not assist the appellant. Cases involving taxes, development fees, statutory cesses or compulsory exaction arising directly under a statute stand on a different footing. In the present case, the appellant has failed to demonstrate that the charges in question are imposed by a statute as compulsory Government levies.

15. We accordingly find no infirmity in the conclusion of the Adjudicating Authority that the activities in question are appropriately classifiable under Business Support Service and that the charges collected constitute consideration for taxable services.

16. As regards invocation of the extended period in appeal no. ST/20226/2014, the appellant submits that its activities were known to the Department and there was correspondence between the parties. It is, however, undisputed that the appellant did not declared the value of the impugned services in its statutory Service Tax returns and did not discharge service tax thereon. The fact that the appellant was registered under service tax and was paying tax on other identified services shows that it was fully aware of its obligations under the Finance Act, 1994. Mere availability of information with the appellant or production of records during Audit does not automatically establish disclosure of the relevant taxable activity in the prescribed returns. The taxable value came to be quantified upon a scrutiny and verification by the Department. In these circumstances, and having regard to the specific findings recorded by the Adjudicating Authority regarding non-decration of the taxable receipts, we find no sufficient ground to interfere with invocation of extended period.

17. Once the appellant was registered under the Service Tax law and was discharging tax on several other services, it was required to correctly assess and disclose all taxable services rendered by it. Non-payment of tax on the impugned receipts continued over substantial period.

18. We, therefore, do not find any legal infirmity in the imposition of penalty under the applicable provisions. However, any statutory benefit relating to quantum of penalty, if available upon fulfilment of the conditions prescribed under the Finance act, 1994 shall remain available in accordance with law.

19. In view of the foregoing discussion, we hold that the activities of certification of SOFTEX forms, issuance of NoCs, and allied assistance

rendered by the appellant to STP/Software Exporting Units cannot be regarded as sovereign/Public Authority functions merely because the appellant performs them under authorisation or supervision of the Government. The charges collected by STPI are not shown to be compulsory statutory levies payable into the Government Treasury. They represent consideration collected for services rendered to the concerned business entities and, therefore, the duties are appropriately taxable under Business Support Service.

20. Accordingly, both the appeals are dismissed.

(Pronounced in the open court on 25.08.2026)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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