

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3**

SERVICE TAX APPEAL NO.59448 OF 2013

[Arising out of Order-in-Original No.65/GB/2013 dated 12.04.2013 passed by the Commissioner (Adjudication) Service Tax, New Delhi]

**Commissioner of Service Tax,
Commissionerate Delhi**

Appellant

Vs.

M/s. Schlumberger Asia Services Ltd

Respondent

14th Floor, Tower-C, Building No.10,
DLF Cyber City, Phase-II,
Gurgaon-122002

Appearance:

Present for the Appellant: Shri N.K. Singh, Authorised Representative
Present for the Respondent: Shri B.L. Narasimhan and Shri Kunal Aggarwal,
Advocates

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing: 05.10.2026

Date of Decision:21.10.2026

Final Order No. 51622/2026

HEMAMBIKA R. PRIYA:

The present appeal has been filed by the Revenue¹ against the Order-in-Original No.65/GB/2013 dated 12.04.2013 passed by the Commissioner (Adjudication) Service Tax, New Delhi, wherein the demand of service tax of Rs.2,91,50,169/- was confirmed.

1. the Appellant

2. The brief facts are that the Respondent have centralized service tax registration, and are engaged in rendering taxable services of Commercial Training or Coaching, Technical Inspection and certification, Commissioning or Installation Service, Maintenance or Repair Service, Goods Transport Agency and Mining Service as defined under Section 65 of the Finance Act, 1994. The Respondent filed their ST-3 returns for the period April, 2008 to September, 2008 and October, 2008 to March, 2009 on 13.08.2009. The Respondent filed revised returns for the said period on 11.11.2009. On scrutiny of the said returns, it was noted that the Respondent had short paid/not paid service tax to the tune of Rs.5,82,28,796/-. On further scrutiny the department also observed that the respondent had deposited an amount of Rs.1,67,77,259/- as arrears, but the Respondent did not clarify as to which payment and which period this service tax payment was related. The Respondent was asked to submit the information/clarification vide letter dated 18.08.2010 & reminder letter dated 07.09.2010. However, the respondent did not submit any reply. Thereafter, Show Cause Notice dated 04.11.2010 was issued demanding Service tax of Rs.5,82,28,796/- along with applicable interest; proposing appropriation of Rs.1,67,77,259/- deposited by them as arrears and alleging penalty under section 76 & 77 of the Finance Act, 1994. The Show Cause Notice was adjudicated by the Commissioner of Service Tax, New Delhi vide Order-in-Original No.65/GB/2013 dated 12.04.2013, wherein adjudicating authority confirmed the demand of Rs.1,80,33,349/- shown as deposit of Arrears in the ST-3 Return and also confirmed Rs.19,53,949/- under

Technical Testing & Analysis service; imposed penalty of Rs.200/- per day for the period during which such failure continues or amount calculated at the rate of two percent per month on the tax not paid (Rs.19,53,949/-), whichever is higher under Section 76 & Rs.5,000/- under Section 77 of the Finance Act, 1994. Aggrieved by the said order, the Department has filed the present Appeal before this Tribunal.

3. Learned Authorised Representative for the Revenue submitted that the adjudicating authority had erred in ascertaining the nature and manner of the services rendered by the Respondent to M/s. ONGC and holding that M/s. ONGC (service recipient) is liable to pay service tax as it related to overseas study and paid by them under reverse charge. He also submitted that scrutiny of contract revealed that the Respondent was required to impart training for the course on 'Orientation program for Acreage Managers' to 75 managers of ONGC in 3 batches, for a period of 7 weeks. Learned authorized representative further submitted that the Respondent was required to carry out the class room learning of the program in India for six weeks, and for the 7th week there was the overseas visit of participants to witness best practices in data acquisition, processing. The cost of logistics and boarding/lodging of the participants in respect of overseas visit was borne by the ONGC but the arrangement of the same was to be done by the Respondent. Learned authorised representative for the Revenue contended that the respondent received consideration from M/s. ONGC for the whole service of the training and not just for the overseas part of the training. In this

context, learned authorized representative contended that the adjudicating authority has failed to discuss as to what services the Respondent rendered to M/s. ONGC during the first six weeks of the said training and what remuneration they received in lieu of that. He also contended that the adjudicating authority had grossly erred in taking cognizance of the email of the ONGC sent to the Respondent certifying that M/s. ONGC had paid service tax on reverse charge basis and demand of service tax from the respondent amounted to double taxation. The impugned order had failed to ascertain the veracity of the said emails by cross checking the challans, indicating that M/s. ONGC had indeed paid the service tax on that account.

3.2 Learned authorised representative for the Revenue further submitted that the adjudicating authority had also failed to take notice of the contents of the invoice No. SASL-NEXT-ONGC-08-12-01 dated 10th Dec, 2008 raised by the Respondent to M/s. ONGC in respect of the said contract wherein the Respondent had also been charging service tax in respect of the service provided by them to M/s. ONGC in relation to training imparted to Acreage Managers of M/s. ONGC. This fact was contrary to their claim that M/s. ONGC had paid service tax on Reverse charge basis. The adjudicating authority had erred in agreeing with the submission of the Respondent that the services provided by the Respondent to M/s. SEDCO, M/s. Triton and M/s. Transocean during the impugned period were not liable to service tax as the said services were provided in respect of wells situated in "non-designated" areas beyond 12 nautical miles in the offshore areas and that as per circular No. 36/4/2001 dated 08.10.2001, the provisions of

Chapter V of the Act had not been extended to the designated areas in the continental shelf and Exclusive Economic Zone of India during the relevant period. Learned authorized representative also submitted that the adjudicating authority had erred in not appreciating the fact that the CBEC Circular dated 08.10.2001 had been superseded by the issuance of Notification No.01/2002-ST dated 01.03.2002 wherein the marine boundaries of India were to be read, in tandem, with the provisions of Territorial Waters, Continental Shelf, Exclusive Economic Zones and other maritime Zones Act, 1976 as made applicable through Notifications of the Government of India in the Ministry of External affairs No. S.O. 429(E) dated 18.07.1986 and S.O.643 (E) dated 19.09.1996 and in terms of which areas in the Continental Shelf or in the Exclusive Economic Zone of India where the installation, structures and platforms are situated and the areas extending up to five hundred meters from the said installations structures and platforms be the "designated areas" for the purpose of said sections. He submitted that the adjudicating authority had also failed to appreciate the fact that as per the various service agreements the Respondent entered into agreements with M/s.SEDCO, M/s. Triton and M/s. Transocean as contractors for M/s. ONGC to provide their mobile drilling units to M/s, ONGC at their installations for the exploration of oil & gas. The Respondent, as sub-contractor, had provided cementing services for cementing and well stimulating along with cementing equipments & cement additives required during drilling operations at the said installations of M/s. ONGC. The services rendered by the respondent in the capacity of a sub-contractor were rendered at the

installations of M/s. ONGC and the installations of M/s. ONGC in various continental shelf and Exclusive Economic Zones of India were in designated areas. Thus, the applicability of service tax in respect of services in such designated areas was not in doubt and the services rendered by the Respondent attracted service tax irrespective, of whether they were rendered within 12 nautical miles of territorial water or beyond but in the continental shelf or Exclusive Economic Zones.

3.3 Learned authorised representative for the Revenue further stated that the adjudicating authority had failed to take notice of the contents of the Contract which the respondent had entered with M/s. RIL. As per the contract, the Respondent was required to operate Integrated Drilling Optimization Center, set up as Real Time Operation Center at Navi Mumbai, which is located within the territory of India. Even if the services were in relation to the Wells located beyond 12 nautical miles, the services were still liable to service tax as per Notification No.01/2002-ST dated 01.03.2002. He also stated that as per the contract, the services performed by the Respondent were monitoring, tracking, planning, designing, documentation, management training and development of RIL which was engineers in relation to the exploration operations of M/s. RIL not at the Well sites, but at RTOC at Navi Mumbai. Learned authorized representative further stated that the adjudicating authority had also failed to take notice of the notice of the contents of the invoice No. REL-D&M-RTOC-April 2008 dated 13.04.2008 raised by the Respondent to M/s RIL in respect of the said contract for the month of April, 2008 wherein the

Respondent had also been charging and collecting service tax in respect of the service provided by them to M/s RIL. This fact was contrary to their claim that they were not liable to tax as the services in relation to Wells of M/s RIL was situated beyond 12 nautical miles of territorial waters.

4. Learned counsel for the respondent submitted that the Show Cause Notice was issued solely on the basis of reconciliation of figures reflected in the ST-3 returns. The Department had alleged that the Appellant had short paid service tax of Rs.5,82,28,796/- being the difference between service tax reflected as payable and the service tax reflected as paid in the returns. Thus, the foundation of the Show Cause Notice was restricted to an alleged short-payment derived from scrutiny of the returns and did not contain any specific allegation disputing the nature, place, manner or taxability of any transaction. He submitted that the present appeal filed by the Department is entirely beyond the case made out in the Show Cause Notice. Moreover, the grounds now urged in appeal are entirely unsupported by any factual evidence on record. The Department was effectively seeking to build an altogether new case at the appellate stage without substantiating such allegations through relevant evidence. This is demonstrated below:

4.1 As regard the Training services rendered to ONGC, learned counsel for the respondent submitted that the Show Cause Notice had proceeded on the basis of figures disclosed in the ST-3 returns. In response to the Show Cause Notice, SAL had submitted that tax of

Rs.24,65,870 was reflected as payable not but paid on account of having been discharged by ONGC. Thus, in the Show Cause Notice, there was no allegation concerning non-payment of training services rendered in India. The Show Cause Notice did not lay any factual foundation concerning the scope of the ONGC contract or any bifurcation of services rendered in India and overseas. The grounds of appeal have introduced a new allegation for the first concerning the place of provision of training services to ONGC, which was beyond the scope of the Show Cause Notice. Further, learned counsel for the respondent submitted that in the appeal, the Department has not placed on record any documentary evidence or contractual material to substantiate its assertion regarding non-payment of service tax on training services rendered in India. In the absence of any factual foundation in the Show Cause Notice and any supporting evidence in the appeal proceedings, such allegations remain wholly unsubstantiated and are liable to be rejected on this ground alone.

4.2 As regards the services provided in designated area, learned counsel for the respondent stated that through the present appeal, the Department had challenged the dropping of Rs.2,91,50,080 on the ground that the impugned order had not verified whether services were rendered by SASL within India or in the designated areas beyond 12 nautical miles from Indian landmass. He also stated that the adjudicating authority had examined the demand proposed in the Show Cause Notice and, upon verification of SASL's explanation for the differences reflected in the ST-3 returns, dropped the demand. The Department's challenge was not directed against the allegations

contained in the Show Cause Notice but sought to build a new case, which was not in Show Cause Notice. Thus, the Department's appeal traveled far beyond the four corners of the Show Cause Notice and was liable to be dismissed on this ground alone. Learned counsel for the respondent placed reliance on the following decisions:

- i. **Collector of Central Excise vs. Cellulose Products of India²,**
- ii. **Principal Commr. of Cus., C.E. & S.T., Nagpur vs. Fabrimax Engg. Pvt. Ltd.³**
- iii. **Commissioner of Customs, New Delhi vs. Tag Overseas⁴**
- iv. **C.C.E. & S.T., Ahmedabad-III vs. Banaskantha District Co-op Milk Producers Union Ltd.⁵**
- v. **Amar Coach Builders vs. Commissioner of Central Excise, Jalandhar⁶,**
- vi. **Commissioner of Customs, Mumbai vs. Toyo Engineering India Limited⁷,**
- vii. **Associated Switch Gears and Projects Ltd. vs. State of UP⁸**
- viii. **Inox Leisure Limited vs. Commissioner of Service Tax, Hyderabad⁹,**

2. 2000(124) E.L.T. 1133 (Tribunal), affirmed by the Hon'ble Supreme Court in 2001(127) E.L.T. A165 (S.C)

3. 2018 (359) E.L.T. 43 (Bom.)

4. 2018 (9) G.S.T.L. 282 (Tri.)

5. 2019(22) G.S.T.L. G.S.T.L. (Tri.-Ahmd.)

6. 2005(191) E.L.T. 621 (Tri. - Del.)

7. 2006(201) E.L.T. 513 (S.C.)

8. 2024(89) G.S.T.L. 188 (All.)

9. 2022(60) GSTL 26 (Tribunal- Hyderabad) affirmed in Commissioner of Service Tax vs. Inox Leisure Limited, 2022(61) GSTL 342 (S.C.)

- ix. **Reckitt & Colman of India Ltd. vs. Collector of Central Excise¹⁰,**
- x. **Collector of Central Excise Vs. Texmaco Ltd.¹¹**
- xi. **Commissioner of Central Excise, Bhubneshwar-I vs. Champdany Industries Ltd.¹²**

4.3 Learned counsel for the respondent further submitted that the Show Cause Notice was issued merely on the basis of differences noticed in the ST-3 returns and did not contain any allegation regarding non-payment of tax on training services rendered in India, provision of services in designated areas of the Continental Shelf or Exclusive Economic Zone, utilization of cementing equipment at ONGC installations, or performance of services for Reliance in India. The Department, having failed to lay the requisite factual foundation in the Show Cause Notice, cannot subsequently seek to supplement or improve upon its case through grounds taken in appeal. Thus, he submitted that before proposing a demand, it was incumbent upon the Department to examine the relevant transactions, identify the precise taxable service involved, analyse the applicable statutory provisions and thereafter allege how the activities undertaken by the Appellant satisfied the ingredients of the charging provision. In the absence of any attempt to demonstrate that the differential amount pertained to taxable services falling under any specific taxable category, the Department failed to discharge its burden of proof. Consequently, the

10.1996(88) E.L.T. 641 (S.C.)

11.1992(61) ELT 477 (Tribunal)

12. 241 ELT 481

demand was unsustainable at its inception. Learned counsel for the respondent placed reliance on the following decisions:

- i. **UOI Vs. Garware Nylons Ltd.**¹³
- ii. **Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company**¹⁴.
- iii. **State of Madhya Pradesh Vs. Marico Industries Ltd.**¹⁵
- iv. **Coramandel Fertilizers Ltd. Vs. Commissioner of Central Excise, Chennai**¹⁶
- v. **Shubham Electricals Vs. Commissioner**¹⁷,
- vi. **R.V. Infrastructural Pvt. Ltd. Vs. Commissioner of Central Tax, New Delhi**¹⁸
- vii. **Deltax Enterprises Vs. CCE, Delhi-I**¹⁹
- viii. **Rajmal Lakhichand Vs. Commissioner of Customs, Aurangabad**²⁰
- ix. **Hindustan Zinc Ltd. Vs. The Commissioner of Central Excise, Udaipur**²¹

13. 1996(9) TMI 123 - Supreme Court

14. 2018 (361) ELT 577 (SC)

15. 2016(338) ELT 335 (SC)

16. 2009(13) STR 542 (Tri.-Chennai) affirmed in Commissioner Vs. Coramandel Fertilizers Ltd. 2012(25) STR J126 (Mad.)

17. 2015(40) STR 1034 (Tri-Del) affirmed in Principal Commissioner Vs. Shubham Electricals - 2016(42) S.T.R. J312 (Del.)

18. 2023-VIL- 1315-CESTAT-DEL-ST

19. 2018 (10) GSTL 392 (Tri. -Del.)

20. 2010(255) ELT 357 (Bom.) maintained by Hon'ble Supreme court of India in 2012(278) ELT 577 (SC)

21. Final Order No. 51000/2022

- x. **CMS (India) Operations & Maintenance Co. (P) Ltd. Vs. CCE, Puducherry²².**

4.4 Learned counsel for the respondent contended that for this reason, the demand itself was not sustainable and consequently, the Department's appeal is liable to be dismissed.

5. We have heard Shri N.K. Singh, learned Authorised Representative for the Revenue and Shri B.L. Narasimhan, learned counsel for the respondent assisted by Shri Kunal Aggarwal.

6. The learned counsel for the respondent has submitted that the department had issued the show cause notice purely on the basis of reconciliation of figures reflected in the ST3 returns. No specific allegations, disputing, the nature, place, manner, or accessibility of any transaction was made in the show cause notice. In this context, we note that the appellant did not submit any documents when sought by the department on the nature of services provided by them. We find the same is noted in the impugned order in Para 4 wherein the Commissioner has recorded as follows: -

"4. The party vide this Office C.No. DL-II/ST/R-12/LAR/SAS/06/10/3311 dated 18.08.2010 and reminder 3654 was requested to submit the following information but the party did not bother to submit any reply...."

In view of such lack of cooperation by the appellant who failed to submit any documents as sought by the jurisdictional office, we are unable to accept the submissions of the learned Counsel that the show cause notice does not contain specific allegations, and the grounds

taken up by the Department was not taken in the said notice. Hence, we hold that the said notice is valid.

7. Learned Counsel has submitted before us that the respondent had provided the services beyond the designated areas of 12 nautical miles from the Indian landmass. He submitted that the adjudicating authority had examined the demand and it was upon verification of respondent's submissions to explain the differences, had dropped the demand. However, learned Authorised Representative has submitted that the impugned order had erred in accepting the submissions of the appellant without any documents. We note that no evidence has been led before us to establish that the services were rendered beyond the designated areas. In addition, we find that there is no discussion on the various service agreements entered by the respondent had entered with other service providers such as M/s SEDCO, M/s Triton and M/s Transocean as contractors for M/s ONGC.

8. Further, on perusal of the facts of the case, we note that the learned Authorised Representative has submitted that the training program conducted by the respondent was for a period of seven weeks for the Acreage Managers. The initial six weeks of the training was carried out in a classroom which was within the taxable territory of India. It was only in week seven that the trainees were taken overseas. Hence, the service tax liability for the initial six weeks would have to be examined. Further, we find that the impugned order has failed to discuss the nature of services, the Respondent had rendered in the first six weeks and what was the remuneration received in lieu

of the services provided. As regards the submissions that M/s ONGC had paid the required tax on RCM, no evidence has been led before us to accept the submissions. We are in agreement with the submissions of the learned authorised representative for revenue that the impugned order has failed to ascertain veracity of the emails and cross verifying the same with the duty payment challans.

9. As regards the contract which the respondent had entered with M/s. RIL, learned Authorised Representative has submitted that it was to operate the Integrated Drilling Optimisation Centre in Navi Mumbai. It has also been submitted that the impugned order had failed to take notice of the contents of the invoice No. REL-D&M-RTOC-April 2008 dated 13.4.2008 where in the respondent had charged and collected service tax in respect of the services provided by them. This fact is contrary to their claim that they were not liable to tax as the services were situated beyond the 12 nautical miles of the territorial waters.

10. We note that other than the assertion that the services were provided beyond the designated area, no other evidence has been placed before us to substantiate this claim. Hence, we are of the view that it would be appropriate to give an opportunity to the respondent to submit all the relevant documents before the adjudicating authority in this regard to substantiate their claim that services were provided in areas which were beyond the designated area.

11. In view of the above discussions, we hold that all these issues need to be relooked into by the adjudicating authority. We direct that the adjudicating authority may give an opportunity to the appellant to

submit all the relevant documents to substantiate their claim in respect of their service tax liability. The appellant may also be given an opportunity to be heard in person.

12. Consequently, we set aside the impugned order and allow the appeal by way of remand.

(Order pronounced on **21.10.2026**)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana