IN THE SUPREME COURT OF INDIA

B.V. Nagarathna and Nongmeikapam Kotiswar Singh, JJ.

TARACHAND CHAUDHARY

Versus

COMMISSIONER OF C. EX. & S.T., JAIPUR-I

Civil Appeal No. 14118 of 2015 with C.A. Diary Nos. 33406 and 33408 of 2015, decided on 10-9-2024

Management, Maintenance and Repair service - Management and maintenance of parks and road side plantation and maintenance on behalf of Jaipur Development Authority/Jaipur Nagar Nigam - In impugned orders, CESTAT had held that with change in definition of "Management, maintenance or repair" with effect from 1-5-2006, its scope was enhanced to cover properties whether immovable or not and accordingly maintenance of trees, grass, etc., was chargeable to Service Tax with effect from 1-5-2006 - On appeal to Apex Court by assessees, *HELD :* Nature of activities undertaken by appellant were clearly covered under scope of aforesaid services in terms of Section 65(64) and 65(105)(zzg) of Finance Act, 1994 as amended with effect from 1-5-2006 - These activities did not come under purview of horticulture activities as claimed by appellant - In view of this, there was no merit in assessee's appeal which was to be dismissed accordingly along with tagged matters - Section 65(105)(zzg) read with Section 65(64) of Finance Act, 1994. *[paras 2 to 7]*

Appeals dismissed against assessees

CASES REVIEW

Tarachand Chaudhary v Commissioner — 2016 (42) S.T.R. 83 (Tribunal) — **Affirmed**

Suresh Jaiswal v. Commissioner — 2016 (42) S.T.R. 97 (Tribunal) — **Affirmed**

Chotelal Virendra Kumar v. Commissioner — 2016 (41) S.T.R. 296 (Tribunal) — **Affirmed**

REPRESENTED BY : S/Shri Tarun Gulati, Sr. Advocate, Kumar Visalaksh, Udit Jain, Ashish Jain, Advocates and Harish Pandey, AOR, for the Appellant.

S/Shri V.C. Bharathi, Udai Khanna, Shreyash U. Lalit, Bhuvan Kapoor, Navanjay Mahapatra, G.S. Makker, Advocates and Mukesh Kumar Maroria, AOR, for the Respondent.

[Order]. - ***Civil Appeal No. 14118 of 2015 :*** We have heard Learned Senior Counsel for the appellant and Learned Counsel for the respondent department at length.

2. We have considered the activities carried out by the appellant assessee. Essentially the said activities would come within the scope and ambit of Sections 65(64) and 65(105)(zzg) of the Finance Act, 1994 which have been amended with effect from 1-5-2006.

3. For ease of reference, the said amendments are extracted as under :

'SECTION 65(64)

65. Definitions. -

In this Chapter, unless the context otherwise requires –

xx xx xx

(64) "management, maintenance or repair" means any service provided by -

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him, in relation to, -

(a) management of properties, whether immovable or not;

(b) maintenance or repair of properties, whether immovable or not; or

(c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle;

'Explanation. - For the removal of doubts, it is hereby declared that for the purposes of this clause,

(a) "goods" includes computer software;

(b) "properties" includes information technology software;

xx xx xx

SECTION 65(105)(zzg)

"taxable service" means any service provided or to be provided, -

(zzg) to any person, by any person in relation to management, maintenance or repair;'

4. Having regard to the nature of activities and obligations to be performed by the appellant assessee, we find that the said activities do not come within the scope of the expression "horticulture activity".

5. In the circumstances, the show cause notice dated 13-10-2010 was rightly issued as against the appellant herein.

6. We do not find any merit in the appeal.

7. Hence, the appeal stands dismissed.

8. Pending application(s), if any, shall also stand disposed of.

C.A. Diary No. 33406/2015 and C.A. Diary No. 33408/2015

9. Delay condoned.

10. Following the order passed in Civil Appeal No. 14118/2015, these appeals also stand dismissed.

11. Pending application(s), if any, shall also stand disposed of.