2025 INSC 914

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.10815-10819/2014

COMMISSIONER OF SERVICE TAX-III, MUMBAI **APPELLANT**

VERSUS

M/s. VODAFONE INDIA LIMITED **RESPONDENT**

WITH

CIVIL APPEAL NO.5252 OF 2015

CIVIL APPEAL NO.5307 OF 2015

CIVIL APPEAL NO.6556 OF 2015

CIVIL APPEAL NOS.2402-2403 OF 2016

CIVIL APPEAL NOS.571-572 OF 2016

CIVIL APPEAL NO.10885 OF 2016

CIVIL APPEAL NO.3692 OF 2017

CIVIL APPEAL NO.1469 OF 2017

CIVIL APPEAL NO.9152 OF 2017

CIVIL APPEAL NO. 4009 OF 2018

CIVIL APPEAL NOS. OF 2025
(Arising out of SLP(C) Nos.25413-25414 & 25416 of 2018)

CIVIL APPEAL NOS.8045-8046 OF 2018

CIVIL APPEAL NO.9140 OF 2018

CIVIL APPEAL NO.10349 OF 2018

CIVIL APPEAL NO.9745 OF 2018

CIVIL APPEAL NO.10071 OF 2018

CIVIL APPEAL NOS.11837-11838 OF 2018

CIVIL APPEAL NO.1440 OF 2019

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No.10281 of 2019)

CIVIL APPEAL NO.4959 OF 2019

CIVIL APPEAL NO.7483 OF 2019

CIVIL APPEAL NOS.9008-9009 OF 2019

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No. of 2025
arising out of Diary No.38417 of 2019)

CIVIL APPEAL NO.2634 OF 2020

CIVIL APPEAL NOS.3546-3549 OF 2020

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No. of 2025
arising out of Diary No.24028 of 2020)

CIVIL APPEAL NO.2424/2022

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No.26382 of 2023)

CIVIL APPEAL NOS.12468-12471 OF 2024

J U D G M E N T

NAGARATHNA, J.

Delay condoned.

Leave granted.

1.1 These Civil Appeals have been filed by the Revenue, i.e. the Service Tax Department, being aggrieved by various orders passed by the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT", for the sake of convenience).

2. The orders passed by CESTAT in all these appeals have been in favour of the respondents-assessees. The CESTAT has held that the services provided by the respondents-assessees have been in

fact exported out of India. Consequently, service tax is not payable by the assessees on such services so exported, *vide* Rule 4 of the Export of Service Rules, 2005 ("Rules", for the sake of brevity). It has also held that the assessees had rightly availed payment of CENVAT credit on inputs and input services used for providing such services *vide* Rule 5 of the Rules.

3. The period under consideration in these appeals range from the year 2003 till the year 2014. During this period, there were several amendments made to the law governing the taxability of export of services, which can be discussed at this stage itself.

4. The policy governing taxability of export of service was initiated in the year 1999 and in the year 2003, it was reiterated. Since service tax is a destination-based consumption tax, services that were exported out of India were not meant to be taxed. The benchmark in the year 1999 was, whether payment was received in convertible foreign exchange. Ultimately, in the year 2010, the benchmark again came to be fixed as receipt of payment in convertible foreign exchange.

5. A brief outline of the amendments made from the year 1999 till 2012 are highlighted as under:

I. From 1999 to 2003:

5.1 During the period from the year 1999 to 2003, any taxable service for which payment was received in convertible foreign exchange was exempted from payment of service tax. A notification in this regard was issued *vide* Notification No.6/99-S.T., dated 09.04.1999, whereby exemption was made in respect of the taxable services specified in sub-section (48) of Section 65 of the Finance Act, 1994. This Notification was however rescinded *vide* Notification No.2/2003-Service Tax, dated 01.03.2003, the reason being that the exemption would be of no consequence as whatever service was exported out of India was in any case outside the scope of levy of service tax. This was because service tax is location-based and whatever service is exported abroad, is outside the scope of service tax. Consequently, Circular No.56/5/2003-S.T., dated 25.04.2003 was issued, clarifying that since service tax is destination-based consumption tax, no such tax was leviable on export of services.

5.2 Subsequently, Notification No.21/2003-S.T., dated 20.11.2003 was issued, providing exemption from payment of service tax on export of services in terms of sub-section (105) of Section 65 of the Finance Act, 1994, provided taxable services to any person in respect of which payment is received in India is received in convertible foreign exchange.

5.3 When the position stood thus, the Government of India decided to formulate Rules regarding export of services.

II. From 2005 to 2010:

5.4 The Rules were introduced *vide* Notification No.9/2005 dated 03.03.2005 which categorized services into three categories as per Rule 3 of the said Rules, which is described as under:

i. Category I related to immovable property and stated that if the specified services were provided in relation to immovable property situated outside India, then the said service would be treated to have been exported;

ii. Category II related to performance-based services and stated that if the specified services were either wholly or partly performed outside India, then the same would be treated to have been exported;

iii. Category III covered the remaining services and provided that such services would be treated as having been exported if provided to a customer located outside India. This sub-rule has two other conditions- (i) that the service is delivered outside India and used in business outside India; and (ii) that the payment for such service is received in convertible foreign exchange.

The controversy in these cases relate to category (iii) services, namely, whether such services were delivered or used or consumed outside India; and partially to category (ii) services, i.e., whether such services were wholly or partly performed outside India.

5.5 Rule 3 of the Rules underwent several amendments from the year 2005 till 2010, which are extracted as under:

15.03.2005 to 15.06.2005

"**Rule 3 - Export of taxable service.**

…

(3) in relation to taxable services, other than, -

(i) ….

(ii) …

(i) such taxable services which are provided and used in or in relation to commerce or industry and the recipient of such services is located outside India:

Provided that if such recipient has any commercial or industrial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of services only if –

(a) order for provision of such service is made by the recipient of such service from any of his commercial or industrial establishment or any office located outside India;

(b) **service so ordered is delivered outside India and used in business outside India**; and

(c) payment for such service provided is received by the service provider in convertible foreign exchange;"

(emphasis supplied)

19.04.2006 to 28.02.2007

Rule 3 was recast as under:

"**Rule 3 - Export of taxable service.**

(1) Export of taxable services shall, in relation to taxable services,—

(i) specified in sub-clauses (d), (p), (q), (v), (zzq), (zzza), (zzzb), (zzzc), (zzzh) and (zzzr) of clause (105) of section 65 of the Act, be provision of such services as are provided in relation to an immovable property situated outside India;

(ii) specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (s), (t), (u), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zzc), (zzd), (zzf), (zzg), (zzh), (zzi), (zzl), (zzm), (zzn), (zzo), (zzp), (zzs), (zzt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze), (zzzf) and (zzzp) of clause (105) of section 65 of the Act, be provision of such services as are performed outside

Provided that where such taxable service is partly performed outside India, it shall be treated as performed outside India;

(iii) specified in clause (105) of section 65 of the Act, but excluding,—

(a) sub-clauses (zzzo) and (zzzv);

(b) those specified in clause (i) of this rule except when the provision of taxable services specified in sub-clauses (d), (zzzc) and (zzzr) does not relate to immovable property; and

(c) those specified in clause (i) of this rule, when provided in relation to business or commerce, be provision of such services to a recipient located outside India and when provided otherwise, be provision of such services to a recipient located outside India at the time of provision of such service:

Provided that where such recipient has commercial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of service only when order for provision of such service is made from any of his commercial establishment or office located outside India.

(2) The provision of any taxable service shall be treated as export of service when the following conditions are satisfied, namely:-

(a) **such service is delivered outside India and used outside India**; and

(b) payment for such service **provided outside India** is received by the service provider in convertible foreign exchange.

x x x

(emphasis supplied)

01.03.2007 to 26.02.2010

"**Rule 3 - Export of taxable service.**

…

(2) The provision of any taxable service shall be treated as export of service when the following conditions are satisfied, namely:

(a) such service **is provided from India and used outside India**; and

(b) payment for such service is received by the service provider in convertible foreign exchange."

(emphasis supplied)

27.02.2010 upto 30.06.2012

"Rule 3 - Export of taxable service.

…

(2) The provision of any taxable service specified in sub-rule (1) shall be treated as export of service when the following conditions are satisfied, namely:

(a) **[omitted]**

(b) payment for such service is received by the service provider in convertible foreign exchange."

(emphasis supplied)

III. Post 2012:

5.6 A new regime called the Negative List Regime was introduced in service tax on 01.07.2012. The Place of Provision of Service Rules, 2012 (for short "POP") was also introduced.

5.7 At the outset, we shall first refer to the brief sketch of the matters under consideration, as provided by learned counsel, as under:

Appeal no.	**Period of Dispute**	**Demand**	**Category and Nature of Service**	**Findings on Facts of the case in Impugned Order**
C.A. No.10815-10819/2014 Commissioner of Service Tax III v. M/S Vodafone India Limited	April 2006 to March 2012	Rs. 36,44,18,798/- (refund) Para 1, pg. 1	Category III Telecom – inbound roaming service provided to Foreign Telecom Operators ('FTOs') Company is providing International Inbound Roaming Services to FTOs. In this regard, Company entered into International GSM Roaming Agreements with various FTOs to provide International Inbound Roaming services to subscribers of FTOs in India for which consideration is paid by the FTOs to Company in convertible foreign exchange.	Findings in OIA dated 20.09.2013 *(Page 314, para 11)* • Company has made roaming facility available to subscribers of foreign telecom operators in terms of agreement with foreign telecom operators. Hence, Company has contractual obligation only to foreign telecom operators and not to their subscribers. *(Para 20, pg. 322)* • Invoice is raised on foreign telecom operator and payment is made by foreign telecom operator. *(Para 20 pg. 323)* • Services accrue to foreign telecom operator and they are the recipient of service and consideration is paid by foreign telecom operator and not by subscriber. *(Para 21 pg. 324)* • Relevant factor is location of service receiver and not place of performance. *(Para 24 pg. 328)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
				• Circular 111/5/2009-ST dated 24.02.2009
C.A. No. 5252/2015 Commissioner of Service Tax-I v. Weizman Forex Limited	15.03.2005 to 31.03.2008 *IO at Pg. 4 of Paperbook*	Rs. 5,12,34,843 *IO at Pg. 4 of Paperbook*	Category III Business Auxiliary Services - Section 65(105)(zzb) of the Finance Act, 1994 Company is an agent for Western Union in India and undertakes money transfer services for Western Union in India and charges a commission from Western Union situated abroad.	• Western Union is providing the consideration for the said services and is situated outside India. *(Para 5.1, pg. 9-10)* • Follows the decision in the case of *Paul Merchants* and Fine Forex. *(Para 5.1, pg. 11)*
CA No. 5307/2015 Commissioner of Service Tax Delhi-IV Commissioner v. M/S Microsoft Corporation (India) Pvt. Ltd. Managing Director CA No 8045 – 8046 2018 Commissioner of Central Excise Delhi III v. Microsoft Corporation India Pvt. Ltd. CA No 12468 – 12471/2024 Commissioner of Service Tax Delhi v. M/S Microsoft Corporation (India) Pvt Ltd	Apr 2006 to Dec 2007 Mar 2005 to Mar 2010 Dec 2006 to Dec 2009	Rs. 127 Cr (Demand) Rs. 244 Cr (Demand) Rs 55 Cr (Refund)	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – The Respondent has a contract with an entity located in Singapore under "Market Development Agreement, (Page 186) which are in the nature of marketing and product support services with respect to the products sold by the overseas entity to Indian customers. Consideration for the service is received in India by Respondents in foreign currency.	Business auxiliary service is Category III services where export status is decided based on the location of service recipient *(Page 100)* No dispute that services of Respondents are business auxiliary services falling under Category III *(Page 101)* Customer of Respondents for marketing and product support services is the entity in Singapore and not the person buying the software in India from the Singapore entity *(Page 106)* Service was delivered, used, consumed outside India as promotion was for products belonging to an entity abroad *(Page 107)* Service is provided to Singapore entity, to be used by them in Singapore, for the sale of their products in India and to provide product support service for their customers in India *(Page 139)* Services provided by Respondents to the entity in Singapore was delivered and used outside India – *(Page 144)* (Note: All page numbers are from Civil Appeal No5307/2015. Issues in other Civil Appeals are common.)

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
C.A. No. 6556/2015 Commissioner of Service Tax-II v. M/s Gap International Sourcing (India) Pvt. Ltd.	19.04.2006 – 31.05.2007	Demand of Rs.5,66,98,112 and penalty of Rs.5,66,98,112 and Rs.1000 – Services relating to procurement of goods	<u>Category III</u> Business Auxiliary Services: Section 65(105)(zzb) read with Section 65(19) of the Finance Act, 1994 – Services relating to Procurement of goods	Activities of Respondent company fall within the scope of Export of Service Rules 2005, there is no liability of service tax - relied on *Paul Merchant* *(Impugned order at para 10, p.54 of Paperbook)*
C.A. No. 2402-2403/2016 Commissioner of Service Tax Delhi V. M/S Amadeus India Pvt. Ltd.	01.07.2003 to 31.03.2008	Rs. 40,62,49,905/- (SCN) period from 01.07.2003 to 31.03.2008 *(Impugned Order at pg. 15 of Paperbook Vol I)* OIO confirmed the demand of Rs. 13,98,16,429/- for the period April 2007 to March 2008. *(Impugned Order at pg. 15-16 of Paperbook Vol I)* Service tax demand on extended period of limitation set aside *(Impugned Order at pg. 57 of Paperbook;* *OIO at pgs. 378-384 of Paperbook Vol II)* *No Question of law proposed or Ground raised in the Civil Appeal assailing the findings of CESTAT on invocation of extended period of limitation.* Bifurcation of demand (*OIO at pg. 385 of Paperbook Vol II)*	Category III Business Auxiliary Services: Section 65(105)(zzb) of the Finance Act, 1994 – Distribution / marketing [*Impugned Order at pg. 13, Para (c) - 14 of Paperbook Vol I].* Amadeus India Pvt. Ltd. ['AIPL'/'Respondent'] is a company registered as a 100% Export Oriented Unit ['EOU'] under the Software Technology Parks of India ['STP'], since the year 1995. As per the agreement between Amadeus Marketing, S. A. ['Amadeus, Spain'] and AIPL/Respondent, the latter was entrusted with the distribution of Computer Reservation System ['CRS'], within India. Amadeus Spain evolved and maintained the CRS, the requisite software and a data base involving a variety of information / data relating to Airlines, hotels and host of other international travel related services. The situs of the core computer system is at Germany / Spain. The CRS is accessed by the Travel Agents for booking tickets/hotels across the globe.	Findings on services rendered by Respondent company *(Impugned Order at para 21 – pg. 51 of Paperbook Vol I)* Services provided by the Respondent company fall outside the scope of BAS *(Impugned Order at para 22 – pg. 52and para 24, 25 – pg. 53-54 of Paperbook Vol I)* Finding of CESTAT that the Respondent was engaged in export of computer software. *[Impugned Order at Pg. 27 ("…in this sense the assesses manufacture, produce and export software to the overseas entities.")], Pg. 28 & Pg. 53 of Paperbook Vol I]* Activities of Respondent company fall within the scope of Export of Service Rules, 2005, there is no liability of service tax – reliance placed on enunciation in the case of *Paul Merchant.* *(Impugned Order at para 26 – pg. 54-56 of Paperbook Vol I)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
			The Respondent / AIPL supplements the functions of Amadeus, Spain, by preparing and transmitting the locally generated travel related data abroad for incorporation and synthesis into their core data base, so as to enable the Tour Operators [operating within India] to access the information / data stored in the core computer system abroad and to enable Amadeus, Spain to access information / data entered by the Tour operators. *(Impugned Order at pg. 23-30 of Paperbook Vol I).* There is no dispute that the consideration for the service is received by AIPL in convertible foreign exchange, from Amadeus Marketing. The Respondent/AIPL was also deemed eligible for exemption u/s 80HHE [Deduction of profits from export of computer software] and later u/s 10A/10B [deduction of profits and gains of a 100% Export Oriented undertaking derived from export of articles/things/computer software] of the Income Tax Act, 1961.	
C.A. No. 571-572/2016 Commissioner of Service Tax Delhi IV v. M/S Acquire Services Pvt. Ltd.	01.07.2003 to 31.03.2008	Rs. 32,88,68,402/- proposed in SCN for period from 01.07.2003 to 31.03.2008 *(Impugned Order at pg. 22 of Paperbook Vol I)* OIO confirmed the demand of Rs. 2,56,05,193/- for the period April	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – marketing and distributing *(Impugned Order at pg. 20 of Paperbook Vol I)*	Findings on services rendered by Respondent company amounting to marketing and data processing *(Impugned Order at para 21 – pg. 47 of Paperbook Vol I)* Services provided by the Respondent company fall outside the scope of BAS *(Impugned Order at para 22 – pg. 48 of Paperbook Vol I)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
		2007 to March 2008 *(Impugned Order at pg. 22 of Paperbook Vol I)* Service tax demand on extended period of limitation set aside *(Impugned Order at pg. 52 of Paperbook; OIO at pg. 440 of Paperbook Vol II)* Bifurcation of demand (*OIO at pg. 443 of Paperbook Vol II)*	Interglobe Enterprises established Acquire Services in India. As per the agreement between Interglobe and Galileo International USA, Acquire was marketing and distributing the hardware and software to Indian travel agents to enable them to connect to the Galileo's host CRS [Computer Reservation System] in the US. CRS is used for booking tickets to and from across the globe. Consideration for the service is received in India by Acquire in foreign currency.	Information Technology services are provided by the Respondent company which are excluded component of BAS *(Impugned Order at para 24, 25 – pg. 49 of Paperbook Vol I)* Activities of Respondent company fall within the scope of Export of Service Rules, 2005, there is no liability of service tax - relied on *Paul Merchant* *(Impugned Order at para 26 – pg. 50 of Paperbook Vol I)* Entire Transaction explained from *Page 393 – Page 396.*
C.A. No. 10885/2016 Commissioner of Service Tax Delhi III v. M/s Transcorp International Ltd.	07/2003-09-2007	Demand of Rs.2,96,35,979 and penalty of Rs.2,96,35,979 and Rs.1000.- Money Transfer and Related Service	<u>Category III</u> Business Auxiliary Services: Section 65(19)(ii) of the Finance Act, 1994 – Advertise and Promote the Money Transfer Service	Activities of Respondent company fall within the scope of Export of Service Rules 2005, there is no liability of service tax - relied on *Paul Merchant* *(Impugned order at para 8, Pp.29-30 of Paperbook)*
C.A. No. 3692/2017 Commissioner of Service Tax Delhi IV vs. M/s Nortel Networks India Pvt. Ltd.	2005-06 to 2011-12 [*Pg. D – Synopsis – Appeal Paperbook*]	Order-in-Original confirmed the demand on three counts: (1) Export of Service – Rs. 66,96,09,360/-; (2) Salary paid to Seconded employees is liable to service tax – Rs. 2,52,20,279/-; and (3) Non-payment of interest on delayed payment of tax – INR 94,24,777/- *See Order-in Original dated 29.08.2014 at Pg. 379, 391, 397 and 404 of the Appeal Paperbook and Pg. D – Synopsis of the Appeal Paperbook.*	Category III Respondent is providing Business Auxiliary Services to its foreign affiliate [*Para 2 of Appeal at Pg. 15 of the Appeal Paperbook].* Business Auxiliary Services fall under Category III – Rule 3(3) up till 15.06.2005 and Rule 3(1)(iii) w.e.f. 18.04.2006. Respondent had entered into two agreements with its overseas entities, (1) Agreement dated 01.07.2000 with M/s Nortel Networks Singapore Pte. Ltd. wherein it collects information and future requirements of various types of	Respondent is providing services to overseas entities. [*Impugned Order at Para 3 – Pg. 6 of the Appeal Paperbook*] Services provided by the Respondent qualifies under export of service as per Rule 3 of Export of Service Rules. [*Impugned Order at Para 4 – Pg. 8-9 of the Appeal Paperbook*] Tribunal placed reliance on *Microsoft Corporation India Pvt. Ltd. vs. CST, New Delhi [2014 (36) STR 766 (Tri. Del.)] [CA Appeal No. 5307/2015], GAP International Sourcing India Pvt. Ltd. vs. CST [2014-TIOL-465-CESTAT-DEL] [CA No. 6556/2015], Vodafone Cellular Ltd. vs. CCE [2014 (34) STR 890 (Tri. Mum.)] [CA No. 10815/2014], Paul Merchants Ltd. vs. CCE [2013 (29) STR 257 (Tri. Del.)] and Alpine Modular Interiors Pvt. Ltd. [2014*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
		CESTAT *vide* Impugned Order dropped the entire demand. Present appeal is filed by the Department only with respect to the question of Export of Service – *Pg. C, G and 15 of the Appeal Book.* Service tax demand in dispute towards export of service is Rs. 66,96,09,360/- for the period 2005-06 to 2011-12. [*Pg. C – Synopsis of Appeal Paperbook*]	telecommunication equipment; and (2) Agreement dated 01.04.2003/ 01.04.2006 with M/s Nortel Networks Ltd. Canada wherein Respondent has provided technical support service. The summary of the work carried out by the respondent is given in Appellant's Written Arguments at *PDF Pg. 768 -771 and Pg. 16 & 17 of the Appeal Paperbook.*	*(36) STR 454 (Tri. – Del.)].* [*Impugned Order at Para 4 – Pg. 9 of the Appeal Paperbook*]. Entire Transaction explained from *PDF Pg. 572 to 575 – Counter Affidavit of the Appeal Paperbook and PDF Pg. 768 and 769 – Written Arguments of the Appeal Paperbook.*
C.A. No. 1469/2017 Commissioner of Central Excise, Customs, and Service Tax-II Bangalore v. M/s IBM India Pvt Ltd.	01.03.2003 – 30.11.2005	Rs. 3,63,91,232/-	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – Sales promotion and Marketing services IBM India Ltd., as the business partner of M/s IBM World Trade Corporation, USA provided "Business Auxiliary Service" in the nature of canvassing, selling, obtaining orders, providing market support, to identify and promote IBM products in India and received a commission in freely convertible foreign exchange. *[Impugned Order, Page 8, Paper Book-Vol-I]*	The issue is settled and thus the demand is unsustainable. *[Impugned Order, Page 9-10, Paper Book-Vol-I]* For the period March 2003 to November 2003, there being no dispute that the services are exported and payment has been received in foreign exchange, liability cannot be imposed for withdrawal of notification. *[Impugned Order, Page 10-14, Paper Book-Vol-I]*
C.A. No. 9152/2017 Commissioner of Service Tax, New Delhi v. M/s Marubeni India Private Ltd.	2005-2010 (BAS) 2007-2009 and 2010-11 (Manpower) 2008-2011 (IT)	BAS: Rs.5,45,75,893/- Manpower Recruitment/Supply Agency: Rs. 4,76,196 /- Information Technology Service: Rs. 1,59,828/-	Category - III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – service fee and handling commission Marubeni India Pvt. Ltd. is a subsidiary of Marubeni Corporation, Japan providing management services for the transactions pertaining to importation of	*Para 2 at pg.4 of paperbook -* BAS - Covered by *Paul Merchants, Microsoft Corporation,* and *Gap International* *Para 4 at pg.5 of paperbook –* Manpower Recruitment/Supply Agency -covered by various decisions: Demand set aside.

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
			goods into India and export of goods from India. (BAS) It was also paying a licence fee to Marubeni, Japan for using SAP software. (Information Technology Software Services: Section 65(53a)) It was also receiving manpower supply services in the form of specialized employees being sent to India who were being paid by the branch overseas but controlled by the Respondent. (Manpower Recruitment or Supply Agency Services: Section 65(105)(k)) *Para 9.1.1 at pg. 93,94 of paperbook* Commission income - towards helping overseas group entities in marketing/procurement of goods from India and seeks new business opportunities for holding company *Para 9.1.2 at pg. 95 of paperbook* Service fees -towards advisory, information, provision of market information and business development services to overseas group entities	*Para 6 at pg.7 of paperbook* - Information Technology Service set aside - demand beyond SCN
C.A. No. 4009/2018 Commissioner of Service tax, Mumbai v. M/s A.T.E. Enterprises Pvt. Ltd.	FY 2004-05 to FY 2010-2011	Service Tax demand of Rs. 5,32,96,615/- proposed in the SCN dated 19.03.2009 for the period FY 2004-05 to 2007-08. Service Tax demand of Rs. 1,08,74,142/- proposed in the SCN dated 21.10.2009 for the period FY 2008-09. Service Tax demand of Rs. 1,12,67,338/- proposed in the SCN	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 *(Impugned Order at pg. 2 of Paperbook Vol I)* ATE Enterprises (Respondent) obtained orders for various types of machineries from various Indian Companies and passed them on to the supplier located outside	Findings on services rendered by Respondent company: amounts to procurement of orders for the foreign supplier. *(CESTAT Order at para 7 to 8 – pg. 221 to 223 of Paperbook Vol I)* Activities of Respondent company fall within the scope of Export of Service Rules 2005; there is no liability of service tax - relied on *Paul Merchant* *(CESTAT Order at para 10 – pg. 227 of Paperbook Vol I)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
		dated 28.09.2010 for the period FY 2009-10. Service Tax demand of Rs. 1,33,88,372/- proposed in the SCN dated 18.10.2011 for the period FY 2010-11. In total Service Tax demand of Rs. 8,88,26,467/- proposed in the SCNs for the period FY 2004-05 to 2010-11. *(OIO at pg. 110 - 111 of Paperbook Vol I)* OIO confirmed the demand of Rs. 8,81,19,194/- for the period FY 2004-05 to 2010-11 along with interest and penalty. *(OIO at pg. 206-209 of Paperbook Vol I)* Service tax demand set aside by CESTAT vide order dated 07.01.2015 *(CESTAT Order at pg. 233 of Paperbook Vol I)* Revenue department filed appeal before the Bombay High court. Appeal dismissed vide order dated 31.07.2017 *Impugned Order at pg. 1-17 of Paperbook Vol I)* Bifurcation of demand (*OIO at pg. 193-194 of Paperbook Vol II)*	India. The foreign supplier on receiving such orders delivers the goods to the Indian Companies. The Respondent received commission in Convertible Foreign Exchange from the foreign supplier on such deliveries of ordered goods. The Respondent does not engage himself in assembling and organizing of the imports. The Respondent is supposed to procure the orders and pass it on to the foreign supplier. The entire transaction is of procurement of orders and rendering of services towards the foreign supplier.	Activities of Respondent company fall within the scope of Export of Service Rules 2005; there is no liability of service tax *(Impugned Order at para 6, 7 – pg. 8 to 14 of Paperbook Vol I)* *Entire Transaction explained from Page 216 – Page 224*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
SLP(C) No. 25413-25414 & 25416/2018 Assistant Commissioner of Service Tax Delhi III *v.* Verizon Communication India Pvt. Ltd.	01.01.2011 to 30.09.2014	Cenvat credit refunds for period from 01.01.2011 to 30.09.2014 were rejected alleging services do not qualify as exports under Rule 3 (1) (iii) of Export of Services Rules, 2005 (pre negative list) and Rule 6A(1) of the Services Tax Rules, 1994 (post negative list) as these services are provided within India. *(Para 7 of Impugned Order at pg. 8-9of Paperbook Part I)*	Category III - Rule 3(1)(iii) of Export of services Rules 2005 and Rule 6A(1) of the Service Tax Rules, 1994. Telecommunication Services: Section 65(109a) r/w 65(105)(zzzx) of the Finance Act, 1994 – upto 30.6.2012 Telecommunication Services: Rule 2(q) read with Rule 3 of the Place of Provision of Services Rules, 2012 and the Finance Act, 1994 – from 1.7 2012 Relevant period in the matters is post 27.2.2010 Following 2 periods are involved in these SLPs: January 2011 to June 2012 (pre-negative list) July 2012 to September 2014 (post negative list) a) Period involved in this SLP is after 27/02/2010. During the entire relevant period of 01/04/2012 to 30/09/2014 the requirement of "delivered outside India", or "provided outside India" or "used outside India" was not there and these had already been omitted long prior to the relevant period. b) In rule 3 (2) of the Export of Service Rules, 2005 (ESR) the expressions during earlier periods were "delivered outside India", "used outside India", "provided outside India" at different places from time to time. All these expressions were omitted from time to time before the relevant period.	a) Telecommunication services provided by the respondent to its overseas customer qualify as exports both during the period January 2011 to June 2012 and during the period July 2012 to September 2014 under Rule 3(1) (iii) of the Export of Services Rules, 2005 and Rule 6A (1) of the Service Tax Rules 1994 read with Rule 3 of the POP Rules 2012 respectively. b) The provision of service by the respondent to its overseas customer complied with the conditions to be considered as export of service. Payment for the service was received by the respondent in convertible foreign exchange and recipient of the service was Verizon US which was located outside India. c) The subscribers to the services of Verizon US may be "users" but under the master supply agreement, it was Verizon US who was the "recipient" of such services and it is Verizon US who paid for the services. d) Denial of refund of Cenvat credit to the respondent was not sustainable in law and the orders denying the refund of Cenvat credit were set aside. *(Impugned Order at para 54 (i) to (vi) and para 55 – pg. 59-63 of Paperbook Part I)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
			c) After the amendments made from 27/02/2010, the only twin requirements of rule 3 of ESR were the following: i) Rule 3 (1) (iii) – that the recipient of service is "located outside India"; and ii)Rule 3 (2) (b) – "payment for such service is received by the service provider in convertible foreign exchange". d) On 01/07/2012, the old provisions of ESR were superseded and following provisions came into force: i) Rule 6A providing for "Export of Services" was inserted in Service Tax Rules, 1994 (STR). ii) Place of Provision of Service Rules, 2012 (POP) came into force. e) Rule 6A continued with the requirement of recipient of service being located outside India and payment being received in convertible foreign exchange. Rule 3 of POP specifically provided that the place of provision of a service shall be the location of the service recipient. *(Impugned Order at para 26 to 30 - pg. 33-38 of Paperbook Part I)* Nature of Services: Verizon Communications India Pvt Ltd (VCIPL) entered into an agreement with MCI International Inc. ('Verizon US'), to render connectivity services to Verizon US. Verizon US is a Company located outside India and is *inter alia* engaged in	

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
			provision of telecommunication services to its customers across the globe. Verizon US does not have the capacity to provide such services in all geographical locations, hence, it takes services from other entities including VCIPL to provide data connectivity from/to India to its customers. The connectivity services were provided by VCIPL to Verizon US on its own account and on principal-to-principal basis. For these services, VCIPL raised invoices on Verizon US and received payment from Verizon US in convertible foreign exchange. The services were claimed as exports under Rule 3(1) (iii) of the Export of Services Rules, 2005 and Rule 6A(1) of the Service Tax Rules 2005 read with Rule 3 of the POPS Rules 2012 for the pre-negative list and post negative list regimes respectively.	
C.A. No. 9139-9140/2018 Commissioner of Central Excise Noida v. M/s Samsung India Electronics Pvt. Ltd. (C.A. No. 9139/2108 pertaining to SCN dated 09.01.2008 and OIO dated 24.11.2008 were dismissed by this Hon'ble Court vide Order dated 19.08.2021 due to low tax effect)	01.04.2007 to 31.03.2012	Service tax demand of Rs. 5,57,68,593/- proposed in SCN for period from 01.04.2007 to 31.03.2012 *(SCN dated 18.09.2012 at pg. 172-173 of Paperbook Vol II)* OIO dated 28.03.2014 confirmed the demand of Rs. 5,57,68,593/- for the period 01.04.2007 to 31.03.2012	Category III Business Auxiliary Services (marketing and distributing): Section 65 (105)(zzb) of the Finance Act, 1994 Category II Management, maintenance or repair services : Section 65(105)(zzg) of the Finance Act, 1994 M/s Samsung India Electronics Pvt. Ltd. was engaged in the activity of identifying new prospective customers and effectively communicating to them the features of their foreign clients' CDMA products.	Post 27.02.2010, for an Export of Service to be made out, only two conditions were to be satisfied i.e. provision of service must be to a recipient located outside India by a person inside India and that payment of such service is to be received by the service provider in convertible foreign currency. It was contended that for the relevant period, M/s Samsung India Electronics Pvt. Ltd. was satisfying these conditions. However, on the issue as above, no findings were returned by the Ld. CESTAT. Facts of the instant case were found to be similar to the case of *Blue Star Ltd.* (rendered by the Ld. CESTAT) which pertained to export of the services of maintenance of

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
		(OIO dated 28.03.2014 at pg. 280 of Paperbook Vol II)	M/s Samsung India Electronics Pvt. Ltd. also provided customer care services to the customers of CDMA mobile phones in India on behalf of Samsung Electronics Company Ltd., Korea. For these two activities, M/s Samsung India Electronics Pvt. Ltd. was receiving a commission from their foreign client in foreign exchange. *(Impugned Order at pg. 3 of Paperbook Vol I)*	equipment on behalf of foreign clients to Indian buyers. *(Impugned Order at para 6, pg. 6 of Paperbook Vol I)* *Paul Merchant* was referred to in the decision of *Blue Star Ltd.* *(Impugned Order at para 9 of Paperbook Vol I)* The facts of the instant case are similar to the case of *Blue Star Ltd.*. It was therefore held that M/s Samsung India Electronics Pvt. Ltd. had provided services of Business Support and maintenance and repair to their client located outside India and performed in India on behalf of the client located outside India. *(Impugned Order at para 8, pg. 28 of Paperbook Vol I)* The extended Period of Limitation vide OIO dated 28.03.2014 was contested on the ground that Revenue had in knowledge all facts pertaining the services provided by M/s Samsung India Electronics Pvt. Ltd. inasmuch as for the previous period of dispute of July, 2003 to November, 2003 and March, 2005 to May, 2006, Revenue had issued an SCN dated 09.01.2008 qua the very same services under consideration. Thus, in terms of *Nizam Sugar Factory vs. Collector of Central Excise 2008 (9) STR (S.C.)* extended period of limitation could not be invoked. However, as the Ld. CESTAT had decided the issue of export of services on merits, it did not consider the issue on limitation as above. *(Impugned Order at para 9, pg. 30 of Paperbook Vol I)* M/s Samsung India Electronics Pvt. Ltd. is not required to pay service tax at all. Question of penalty does not arise. *(Impugned Order at para 10, pg. 30 of Paperbook Vol I)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
C.A. No. 10349/2018 Commissioner of Central Excise & Service Tax v. Canon India	April 2008 to November 2009 *Pg. 69 of paperbook*	Rs.11,33,4S,443/- *(Only BAS demand is mentioned @ Page B of Synopsis)*	Category III Business Auxiliary Services (marketing and promotion): Section 65 (105)(zzb) of the Finance Act, 1994 Sole distributorship of Canon Singapore's products. Heavy expenditure undertaken by Canon India for promotion in India, which is subsidized by Canon Singapore by way of reimbursement. This reimbursement is alleged to be paid towards provision of BAS services, which do not amount to export.	*Pg. 19 of Paperbook* Principal to principal and not as agent *Para 7 at pg. 21-22 of Paperbook* No consideration for service Reference to Clauses of agreement Previous period finding – activity not BAS *Para 8 at Pg. 22 of paperbook* - Covered by Gap
C.A. No. 9745/2018 Commissioner of Service Tax v. M/S J Mitra and Company Pvt. Ltd.	Show Cause Notice dated 19.10.2011 (2006-07 to 2009-10) *(Annexure A1 at pg. 58, 86 of Paperbook)* Show Cause Notice dated 16.04.2012 (2010-11) *(Annexure A2 at pg. 103, 106 of Paperbook)*	Rs. 7,47,96,885/- for BAS *(Annexure A1 at pg. 86, 95 of Paperbook)* Rs. 58,500/- for 'supply of tangible goods service' *(Annexure A1 at pg. 96 of Paperbook)* Rs. 6,52,794/- for commissioner received from foreign currency *(Annexure A2 at pg. 106 of Paperbook)*	Category III Business Auxiliary Services (marketing and distributing): Section 65 (105)(zzb) of the Finance Act, 1994 *(Impugned Order at pg. 2 of Paperbook)* J. Mitra appointed by foreign entity for promotion and sales of the latter's endoscopy equipment in India.	Issues framed *(Impugned Order at para 4 – pg. 4 of Paperbook)* Respondent company is exclusive agent of Olympus Singapore PTE Ltd. in India for promotion of sales and services of Olympus *(Impugned Order at para 5 – pg. 4 of Paperbook)* For export of service, CESTAT relied on *Paul Merchant* and *Gap International* *(Impugned Order at para 5.1 – pg. 5 of Paperbook)* On whether hiring of endoscope would amount to 'supply of tangible goods for use service' or not – matter was remanded to original authority to determine whether there is a 'service' or 'sale'? *(Impugned Order at para 6.4 – pg. 21 of Paperbook)* Note: remand is not challenged in SLP.

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
C.A. No. 10071/2018 Commissioner of Service Tax Delhi v. SGC Services Pvt. Ltd.	Show Cause Notice dated 19.10.2011 (2006-07 to 2009-10) *(Annexure A2 at pg. 115 of Paperbook Vol I)* Show Cause Notice dated 18.04.2012 (01.04.2010 to 30.09.2011) *(Annexure A3 at pg. 198 of Paperbook Vol I)* Show Cause Notice dated 31.03.2013 (01.10.2011 to 30.09.2012) *(Annexure A4 at pg. 215 of Paperbook Vol I)*	Rs. 6,20,48,263/- on export of service / BAS *(Show Cause Notice at Annexure A2 – pg. 116, 163 of Paperbook Vol I)* Rs. 24,12,00,011/- on reimbursement of expenses *(Show Cause Notice at Annexure A2 – pg. 164, 182 of Paperbook Vol I)* Rs. 27,58,18,333/- on export of service /BAS and reimbursement of expenses *(Show Cause Notice at Annexure A3 – pg. 208 of Paperbook Vol I)* Rs.1,58,19,80,761/- on export of services & Rs.18,27,12,058/- on reimbursement of expenses *(Show Cause Notice at Annexure A4 – para 7, pg. 223 of Paperbook Vol I)*	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 Management or Business Consultants Services and BAS *(Show Cause Notice at pg. 115 of Paperbook Vol I)* Contract with foreign hotels for providing rented space, infrastructure and staff, for their development centres. Payroll processing for foreign company for the latter's clients based in India & the Middle East	Relied on *Paul Merchant* *(Impugned Order at para 4 – pg. 3 of Paperbook Vol I)*
C.A. No. 11837-11838/2018 Commissioner of Central Excise (ADJ) v. Agilent Technologies India Private Limited	SCN dated 26.09.2007 BAS - 01.07.2003 to 19.11. 2003 and 19.04.2006 to 31.03.2007 Management, Maintenance or repair service – 01.07.2003 to 19.11.2003 and 01.03.2005 to 31.03.2007	Rs. 8,13,15,324/- (Rs. 6,97,58,354/- under Business Auxiliary Service) (Rs. 1,15,56,970/- for Management, Maintenance or repair service)	Category III BAS - Marketing and distributing Agilent provided sales promotion, admin support and market study reports to Agilent Singapore. Category II Management, Maintenance or repair service Agilent also undertakes tech support, installation facilities for Agilent Singapore's customers in India.	CESTAT Delhi order dated 13.10.2015 - *Para 3 at pg. 4 of paperbook* - Department did not contest the position that services constitute Export of Services Followed the decisions in the case of *Paul Merchant* and *Microsoft Corporation* CESTAT Delhi order dated 31.07.2017 - *Para 3 at pg. 9 of paperbook* Followed the above Order dated 13.10.2015 for the previous period in the case of Agilent

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
	SCN dated 17.10.2008, 14.10.2009, 19.10.2010, 24.10.2011 - April 2007-March 2011			
C.A. No. 1440/2019 Commissioner Central Excise Delhi-II v. M/s Research in Motion India Pvt. Ltd.	2005-06 to 2008-09	Rs. 6,80,39,260/-	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – Sales promotion and Marketing services [Period- October 2005-March 2006 and June 2009-February 2010] Research in Motion India Pvt. Ltd. entered into a service agreement with Research in Motion, Singapore, for providing sales promotion and marketing service. *[Impugned Order, Page 5, Paper Book-Vol-I]*	The assessee has provided marketing and support services which admittedly is covered under the Business Auxiliary Services category, for which provision of service is determined as per the location of the recipient. In the present case, beneficiary is RIM Singapore, who paid the consideration for service. It is settled that in such situations, the services are considered exported. *[Impugned Order, Page 10-11, Paper Book-Vol-I]* Issue also has been decided in the assessee's own case and the order has attained finality. *[Impugned Order, Page 12-13, Paper Book-Vol-I]* The decisions relied upon are applicable and thus the credit cannot be denied. *[Impugned Order, Page 11, Paper Book-Vol-I]* Interest cannot be levied when provision was brought in S. 67 from 10.05.2008. *[Impugned Order, Page 12, Paper Book-Vol-I]*
SLP(C) No. 10281/2019 Principal Commissioner of Service Tax v. M/S Wartsila India Limited	April 2008 to March 2009	Rs. 3,45,75,127	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – Sales promotion and Marketing services	Receiving commission from foreign based principal for promotion and sale of products in India.

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
C.A. No. 4959/2019 CST v. Vodafone Mobile Service Limited	April 2007 to September 2010	Rs. 13,67,38,768	Category III Telecom – inbound roaming service provided to foreign telecom operators	Company is providing telecom services to customer of foreign telecom service provider while he is in India using Company's network, there is no contract or agreement between the Company and the subscriber. *(Para 9, Page 12)* The agreement is with FTO located outside India and subscriber of the said FTO (who is the customer / service recipient of the Company). Customer is not customer of Company.
C.A. No. 7483/2019 Commissioner of Service Tax, Delhi v. M/S Autodesk India Private Limited	2006-2011	Rs. 27,54,39,641/-	Category-III Business Auxiliary Service Section 65(105)(zzb) and Information Technology Software Service - Section 65(105)(zzzx) Autodesk India Pvt. Ltd. is a wholly owned subsidiary of Autodesk Inc. USA. Autodesk is engaged in providing marketing and technical support services to M/s Autodesk Asia Pte. Ltd., Singapore ('AAPL') which in turn in engaged in the business of developing, manufacturing, distributing and supporting certain computer software and related products in India.	Consideration received in convertible foreign exchange and in lieu of services provided. The activities undertaken would qualify as export of service (*Page 9)* With respect to the remainder demand of Rs. 31,80,857/-, an amount of Rs. 24,17,526/- stands paid. *(Page 10)* Remainder demand of Rs. 7,63,331/- set aside as the classification of the service is misplaced. *(Page 12-13)*
C.A. No.9008-9009/2019 Commissioner of Central Excise, and Service Tax, Bangalore LTU v. M/s IBM India Pvt Ltd.	01.12.2005 to 01.09.2007	Rs. 24,96,37,632	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – Sales promotion and Marketing services The assessee entered into an agreement with M/s. IBM World Trade Corporation, USA terms of which the assessee was appointed as IBM USA's	IBM India provides services to their foreign company situated outside India and their parent company does not have any commercial or industrial establishment or any office in India and the services by IBM India are provided in relation to provision of service recipient i.e. IBM WTC. Further, the IBM India has satisfied the conditions that are required under the Export of

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
			Business Partner in India for the purpose of marketing selected IBM products. The assessee received payment of commission in convertible foreign exchange. The assessee undertook various activities viz. promotion, marketing, sales, procurement of orders, and provide marketing support to identify and promote the products of IBM USA in India. *[Impugned Order, Page 3]*	Service Rules, 2005. *[Impugned Order, Page 11]* There is no condition under Export of Service Rules, 2005 that the services performed in India would not qualify as export of services. *[Impugned Order, Page 11]*
Diary No. 38417/2019 Commissioner of Service Tax Delhi v. M/S Sumitomo Corporation India Private Limited	2005-2006 to 2009-2010	1.Rs. 8,64,15,782/- Commission 2.Rs.2,90,09,918/- - Service Fee 3.Rs.1,40,76,983/- - Demand for Reversal of credit Total demand of ST: Rs. 11,54,25,700 Penalty under Section 78: Rs. 11,54,25,700 Penalty under Rule 15(3): Rs. 25,53,340/- Penalty under Section 77:Rs.5000	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 Sumitomo Corporation India is involved in trading of goods in India. Apart from that, Sumitomo India also extends services to parent companies in relation to import of goods into India. The services provided are in the nature of transmitting proposals, delivering contract sheets, checking vessel and schedules, loading unloading services etc. For these services, Sumitomo India obtains a commission from the foreign entities in foreign exchange in India. Similarly, Sumitomo also undertakes promotion & marketing of products / business for foreign companies in India and charges a 'service fee' for these services.	Relied on the decision of *Paul Merchants (Del Tri) [Page 10]* and *Microsoft (Del Tri.) [Page 11]* Recipients of service are foreign entities and they are the consumers of the services being provided from India *[Page 10]* The customers to whom the goods were sold or people from whom information was collected were not the recipients of service provided by Sumitomo. *[Page 10]* The customers to whom the goods were sold by foreign entity or people from whom information was collected were not the recipients of service provided by Indian entity. *[Page 10]* Person who requested for the said service and liable to make payment for the same, has to be treated as recipient of service and not the person affected by the performance of service. *[Para 11]*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
CA No. 2634/2020 Commissioner of Service Tax VII Mumbai (Now known as Commissioner of Central Goods and Service Tax, Excise and Customs, Navi Mumbai) v. M/s Abbott Healthcare Pvt. Limited	2009-10 till 2012-13	Service tax demand of Rs. 28,92,48,439/- proposed in SCN dated 13.10.2014 for period from 2009-10 till 2012-13 *(Impugned Order at pg. 7 of Appeal)* OIO dropped the proceedings vide order dated 04.03.2015 initiated against the Respondent vide SCN dated 13.10.2014. *(Impugned Order at pg. 2 of Appeal)* Bifurcation of demand (*Impugned Order at pg. 3 of Appeal)*	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – marketing and distributing *(Impugned Order at pg. 42 of the appeal)* The Assessee was trading in nutritional products in India as a distributor of imported goods from its fellow subsidiary company Abbott Logistics B.V. Netherland (hereinafter referred to as "ALOG") on principal-to-principal basis. The products are imported by the Assessee. In order to increase its market share and grow in the market, the Assessee entered into an arrangement with ALOG whereby it was mutually agreed that extraordinary or operating expenses incurred by the Assessee in respect of advertising of imported goods under distribution modelling hiring skilled personnel etc. in each financial year would be reimbursed to enable the Assessee to continue to earn an arm's length margin in its existing trading business.	The CESTAT in the impugned order held that the operating expenses that were incurred for the purpose of developing and expanding the market of the products in India were sought to be reimbursed by the ALOG to the Assessee and such reimbursable expenses incurred cannot be included in the taxable value of services rendered. *(Impugned Order at pg. 37 of the appeal)* Services provided by the Respondent company fall within the scope of BAS as also admitted by the Revenue *(Impugned Order at para 5.7 – pg. 42 of Appeal)* Activities of Respondent company fall within the scope of Export of Service Rules 2005, there is no liability of service tax *(Impugned Order at para 5.7 & 5.8 – pg. 43 & 44 of Appeal)*
C.A. Nos.3546-3549/2020 Commissioner of Service Tax Delhi -III *v.* M/s. Verizon India Pvt. Ltd.	01.04.2012 to 30.09.2014	CENVAT credit refunds for period from 01.04.2012 to 30.09.2014 were rejected alleging services do not qualify as exports under Rule 3 (1) (iii) of Export of Services Rules, 2005 (upto 30.6.2012) and Rule 6A of the Services Tax Rules, 1994 (from 1.07.2012)	Category III - Rule 3(1) (iii) of Export of Services Rules, 2005 and Rule 6A(1) of the Service Tax Rules, 1994 Following 2 periods are involved in this matter: April 2012 to June 2012 (pre-negative list) July 2012 to September 2014 (post negative list)	The CESTAT Delhi held that *"it is evident that the services of the Appellant (Verizon India) to Verizon US do not merit classification under the category of intermediary services* *Accordingly, we hold that the appellants have rendered services to Verizon US as principal service provider and not as intermediary"*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
		(Impugned Order at pg. 1 to 70 of Paperbook Part I) Assistance Commissioner sanctioned service tax refund *(OIO at pg. 106 to 133 of Paperbook Part I)*	Business Support Service 65(104c) r/w 65(105)(zzzq) of the Finance Act, 1994– upto 30.6.2012 Support Services: Section 65B (49) of the Finance Act, 1994 – From 01.07.2012 Nature of Services: Verizon India Pvt Ltd is rendering Business Services to Verizon US. The services provided by VIPL to Verizon US were classified as 'Business Support Services' ('BSS') in the service tax returns and claimed as exports in terms of under Rule 3(1)(iii) of the Export of Services Rules, 2005 and Rule 6A (1) of the Service Tax Rules 1994 read with Rule 3 of the POPS Rules 2012 under pre-negative list and post negative list regimes respectively. Consideration for the services is received by VIPL in convertible foreign exchange.	*Accordingly, we hold that the appellants (Verizon India) are entitled to refund under rule 5 of the Cenvat Credit Rules, 2004 read with the concerned notification."* *(Impugned Order at para 31 – pg. 69-70 of Paperbook Part I)* The adjudicating authority analysed 6 issues conditions for determination as to whether the services were "export of service" and decided the same in favour of the respondent. The service recipient (Verizon US) was located in USA, that is, outside India. The place of provision of service was outside India. Payment was received by the respondent in convertible foreign exchange. Under rule 3 of the POPS Rules, the Place of provision of service was the location of service recipient which was outside India. *(Impugned Order at para 7 – pg. 31-43 of Paperbook Part I)* Further, admitted facts as recorded by the CESTAT are that the respondent provided services and raised invoices on principal to principal basis on Verizon US. Its contract was with Verizon US which was located outside India. The respondent received remittance in convertible foreign exchange. The respondent satisfied all the conditions for the services being treated as export of service. *(Impugned Order at para 30 – pg. 67 of Paperbook Part I)*
Diary No. 24028-2020 C.C.E. and S.T Bangalore LTU v. M/S Fanuc India Pvt. Ltd.	-	Rs. 13,19,52,397 – Export of technical testing service	Category II Clinical and pharmaceutical research on new drugs through testing and analysis of their effect on human beings / volunteers with resultant data being evaluated by experts situated abroad who analyze the data and arrive at the conclusions/outcome of the test results.	Services have been performed from India. Principal or the service receiver is located outside India. Thus, the technical testing and analysis services have been delivered by the appellant outside India and have been used by the service receiver outside India. *(findings of Hon'ble Tribunal in 5.2)*

Appeal no.	Period of Dispute	Demand	Category and Nature of Service	Findings on Facts of the case in Impugned Order
C.A.No. 2424/2022 Commissioner of Central Tax Bangalore North v. Lotus Lab Pvt. Ltd.	05/2006 – 09/2009; 07/2007-03/2009	Rs. 13,58,18,217 – Technical Testing and Analysis; Catering Service; Renting Service	<u>Category II and III</u> Clinical and pharmaceutical research on new drugs through testing and analysis of their effect on human beings / volunteers	"The 'technical testing and analysis service'... have been delivered by the appellant outside India and have been used by the service receiver outside India." (*Impugned order at para 5.2, P.8 of Paperbook)* "So far as denial of CENVAT credit on catering services is concerned, the issue stands settled in favour of the [assessee]" *(Impugned order at para 5.3, P.8 of Paperbook)* "We hold that rent paid even for the period, the premises were under repair/renovation to make them suitable for the use of the appellant/assessee, is also deemed to be used for business purposes." *(Impugned order at para 5.4, PP.8-9 of Paperbook)*
SLP(C) No. 26382/2023 Commissioner of CGST & Central Excise Belapur v. Wartsila India Limited	-	-	Category III Business Auxiliary Services: Section 65 (105)(zzb) of the Finance Act, 1994 – Sales promotion and Marketing services	Receiving commission from foreign based principal for promotion and sale of products in India.

Submissions:

6. During the course of submissions, learned Additional Solicitor General (ASG) Sri Vikramjit Banerjee appearing for the appellant Revenue as well as learned senior counsel and counsel for the respondents-assessees drew our attention to the fact that in this batch of appeals, the services are all in either Category (ii) or

Category (iii) services, *vide* Rule 3 of Rules. It is also not in dispute that the clients/customers of the assessees with whom the contract of service has been entered into and from whom payment in convertible foreign currency is received by the respondent assessees herein are all located outside India. Further, CESTAT has rendered findings of fact that the services have indeed been delivered outside India to the customers located outside India and hence, no substantive questions of law arise in these appeals. Of course, this submission is assailed by the appellant Revenue in these appeals.

6.1 Further, in respect of category No.(ii) services, CESTAT has observed that even the performance test has been satisfied. According to the respondent assessees, the actual services that have been rendered by them in these appeals are (i) Business auxiliary services (category-III); (ii) Telecommunication services (category-III); and (iii) Management, maintenance and repair services (category-II) under Rule 3 of the Rules. The relevant provisions of the Finance Act, 1994 pertaining to the aforesaid taxable services are extracted as under:

(i) <u>"Business Auxiliary Services</u>

"**Section 65 - Definitions**. - In this Chapter, unless the context otherwise requires-

...

(19) "business auxiliary service" means any service in relation to, -

(i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(ii) promotion or marketing of service provided by the client; or

(iii) any customer care service provided on behalf of the client; or

(iv) procurement of goods or services, which are inputs for the client; or

Explanation.- For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, "inputs" means all goods or services intended for use by the client;

(v) production or processing of goods for, or on behalf of, the client;

(vi) provision of service on behalf of the client; or

(vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision,

and includes services as a commission agent, but does not include any activity that amounts to manufacture of excisable goods."

…

"(105) "taxable service" means any service provided or to be provided –

(zzb) to a client, by any person in relation to business auxiliary service;"

(ii) <u>Telecommunication Service</u>

"**Section 65 - Definitions**. - In this Chapter, unless the context otherwise requires-

(109a) "telecommunication service" means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) and includes—

(i) voice mail, data services, audio tax services, video tax services, radio paging;

(ii) fixed telephone services including provision of access to arid use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to arid from national and international destinations;

(iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data arid video, inbound arid outbound roaming service to and from national and international destinations;

(iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

(v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menus and video conferencing;

(vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;

(vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and

(viii) communication through facsimile, pager, telegraph and telex, but does not include service provided by—

(a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105);

(b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and

(c) any person in relation to internet telecommunication service referred to in sub-clause (zzzu) of clause (105);"

…

"(105) "taxable service" means any service provided or to be provided –

(zzzx) to any person, by the telegraph authority in relation to telecommunication service"

(iii) <u>Management, maintenance and repair service</u>

"**Section 65 - Definitions**. - In this Chapter, unless the context otherwise requires-

…

(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;

(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;"

...

"(105) "taxable service" means any service provided or to be provided -

...

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

7. One of the points of controversy raised in these appeals by learned ASG Sri Vikramjit Banerjee appearing for the appellant herein revolves around the interpretation of the expressions ***"delivered outside India and used outside India"*** and "***provided from India and used outside India***" in Rule 3 of the Rules. According to the learned ASG, even if the contractual customer is located outside India, if the beneficiaries of the services are located

within India, then they do not fall within the scope of the exemption.

7.1 In light of the aforesaid controversy, the learned ASG placed reliance on ***Paul Merchant vs. CCE, 2013 (29) STR 252 (Tri.-Del.) ("Paul Merchant"),*** paragraph 16 of the said order, which reads as under:

> "**16.** The entire argument of Revenue is based on the fact that the activities of PML are performed in India though words like "used in India" are used while arguing the point. We say so because there is no doubt that the use of the service is by the person paying for it that is Western Union and through them the person abroad who wants to remit the money and hence the use is outside India. But Revenue wants that the issue of export should be decided with reference to place of performance of service by PML, ignoring the fact that Business Auxiliary Service is not specified in Rule 3(1)(ii) where performance of service is the criterion but specified in Rule 3(1)(iii) wherein criteria are different. If performance is the criterion to be adopted for deciding what constitutes export for Business Auxiliary Service what is required is to specify the service defined in Section 65(105)(zzb) in Rule 3(1)(ii) of the Export of Services Rules, 2005. It is a different matter that even under Rule 3(1)(ii), the criteria laid down indicate that if the service is performed partly outside India, it will be considered that the service is performed outside India and specifying the service under Rule 3(1)(ii) itself may not result in the outcome as desired by the ld. SDR. At any rate, after specifying it in Rule 3(1)(iii), it is fallacious to argue that the criterion applicable for services in Rule 3(1)(ii) should be applied for this service."

8. In response to this submission, learned Senior counsel and learned counsel for the respondents submitted that service tax is a contract-based levy and therefore, it is the contract which determines the relationship between a service provider and a service recipient. Even if certain beneficiaries may be located in India, the service provider has no contractual relationship with such beneficiaries. There is no privity of contract between the beneficiary and the service provider. Therefore, the mere fact that the beneficiary of the service is located in India would not be a determinant factor for the levy of service tax under the Rules as the service is, in fact, provided to a recipient located outside India.

8.1 It was further contended on behalf of the respondent assessees that various preparatory activities, such as sourcing vendors, identifying customers etc. may occur in India but such activities alone would not mean that the service has not been exported to a party located overseas. Even if the customer has requested for some service within India, what is of significance is to whom the service is provided and where the recipient of the service is located and secondly, from whom the payment in convertible

foreign exchange is received and whether, the recipient is located outside India.

8.2 Learned senior counsel and learned counsel for the respondents contended that the reasoning in ***Paul Merchant*** is correct and CESTAT has rightly found that the Revenue has conflated the two categories and is subjecting category (III) services to the rigors of the performance-based services under category (II) of the Rules. It was therefore their contention that the present appeals may simply be dismissed.

9. Another issue which was highlighted was with regard to the judgment of this Court in ***C.A. No. 10349 of 2018 (Commissioner of Central Excise and Service Tax vs. Canon India private Limited)***. It was submitted that where the assessee in these cases is a principal-to-principal distributor of the foreign company, i.e., where the assessee purchases goods from the foreign company and further sells them on its own account to independent customers in India, the finding of the CESTAT that the assessee is carrying out the sales and promotion on their own behalf is correct. In such a case, the assessee's activities are not covered under the definition of

business auxiliary service within sub-section (19) of Section 65 of the Finance Act, 1994. Hence, it is not liable to pay any service tax on the receipts from the foreign company as a reimbursement of marketing expenses. The CESTAT has also rightly found that no service tax would be payable under the Rules and therefore had rightly set aside the demand.

10. In sum and substance, it was contended by learned senior counsel and learned counsel for the assessees that there is no merit in these appeals and the same may be dismissed.

11. Sri S.K. Bagaria, learned senior counsel appearing on behalf of the respondent-assessee in *C.A. Nos.3546-3549 of 2020 (Verizon Communication India Pvt. Ltd.)* submitted that the issue in these cases relates to export of telecommunication services and the respondent assessee is in the business of providing data connectivity service. The assessee entered into a contract with its overseas customer (Verizon, USA) to provide the said service. That Verizon, USA provides telecommunication service to its own customers across the world and to enable data transfer from/to India, Verizon, US availed connectivity services from the respondent

assessee (Verizon Communications India Private Limited) for enabling data transfer from India to overseas. That the nature of the transaction has been encapsulated as under:

> "i. The respondent's contract was with Verizon US who alone had the contractual right and liability to receive the service and pay for the same.
>
> ii. The respondent raised its bills on Verizon US.
>
> iii. Verizon US paid the bills in convertible foreign exchange directly to the respondent.
>
> iv. The said services were provided by the respondent to Verizon US on its own account and on principal-to-principal basis.
>
> v. There was no privity of contract between the respondent and customers of Verizon US."

11.1 It was submitted by the learned senior counsel, Sri Bagaria, in the matters where he is appearing for the assessees, that the periods involved are between January-2011 to June-2012 (pre-negative list) and July-2014 to September-2014 (post-negative list).

11.2 Learned senior counsel drew our attention to the extant rule and its amendments during the periods referred to above, as under:

"**3. <u>Pre-Negative List Period of January 2011 to June 2012</u>**

3.1 During pre-negative list period mentioned above, export of service was governed by the Export of Service Rules, 2005.

3.2 Rule 3 of the Rules provided about "export of taxable service". Rule 3(1) (i) and (ii) did not apply to the present case and there is no dispute in that regard. Rule 3 (1) (iii) required that the recipient of service is "located outside India". In the present case Verizon US is located in USA (that is, outside India).

3.3. Rule 3(2) was amended from time to time and relevant portions of the said rule during different periods are set out below:

<u>19.04.2006 to 28.02.2007</u>

"(2) The provision of any taxable service shall be treated as export of service when the following conditions are satisfied, namely –

(a) such service is **delivered outside India** and **used outside India**; and

(b) payment for such service **provided outside India** is received by the service provider in convertible foreign exchange."

01.03.2007 to 31.05.2007

"(2) The provision of any taxable service specified in subrule (1) shall be treated as export of service when the following conditions are satisfied, namely –

(a) such service is **provided from India** and **used outside India**; and

(b) payment for such service **provided outside India** is received by the service provider in convertible foreign exchange."

01.06.2007 to 26.02.2010

"(2) The provision of any taxable service specified in subrule (1) shall be treated as export of service when the following conditions are satisfied namely –

(a) such service is **provided from India** and **used outside India**; and

(b) payment for such service is received by the service provider in convertible foreign exchange."

27.02.2010 up to 30.06.2012 (this was during relevant period involved in present case)

"(2) The provision of any taxable service specified in sub-rule (1) shall be treated as export of service when the following conditions are satisfied namely –

(a) (omitted)

(b) payment for such service is received by the service provider in convertible foreign exchange."

11.3 Thus, according to the learned senior counsel, the requirements of "delivered outside India", "provided outside India" and "used outside India" have been omitted long prior to the relevant period. During the relevant period, the only twin requirements of Rule 3 were the following:

a. the recipient of service is located outside India; and

b. payment for the service is received in convertible foreign exchange.

11.4 According to the learned senior counsel, both these conditions were satisfied in respect of the services exported by the respondent to its overseas customer Verizon US.

11.5 In response to the submissions made by the learned ASG, appearing on behalf of the Revenue, that even though the expression *"used outside India"* was omitted on 27.02.2010, the issue whether the said condition *"could still be applied to the transaction after the said omission"* and the issue whether the

services by respondent assessees were "provided within India" still remain, learned senior counsel, Sri Bagaria, made the following submissions:

a) Firstly, requirement of "delivered outside India", "provided outside India" and "used outside India" has already been omitted long prior to relevant period and there can be no scope to read any such requirement in the rule, even after such omission.

b) Secondly, during the relevant period, as stated above, the only twin requirements were that, i) recipient of service is located outside India; and ii) payment for the service is received in convertible foreign exchange, and both these requirements were fully satisfied.

c) The respondent's contract was with Verizon US, exports were made to Verizon US, bills were raised by the respondent on Verizon US and payments in convertible foreign exchange were made by Verizon US directly to the respondent. The respondent provided its service on principal-to-principal basis and on its

own account to Verizon US who was the recipient of the service and who paid for the same. In terms of contract between the parties, Verizon US alone had the contractual right and liability to receive the service and pay for the same.

11.6 With regard to the "post negative list" for the period from 07.07.2012 to 2014, learned senior counsel referred to the amendments made as under:

a) That on 01.07.2012 the old provisions of Rules were superseded and following new provisions came into force:
   i. Rule 6A providing for "Export of Services" was inserted in Service Tax Rules, 1994 (for short "STR")
   ii. Place of Provision of Service Rules, 2012 came into force.

b) That Rule 6A of STR continued with the earlier requirements under Rules relating to provider of service being located in taxable territory, recipient of service being located outside India and payment being received in convertible foreign-exchange. It also imposed following new conditions:
   i. Service is not specified in section 66D (negative list of services)

ii. Place of provision of service is outside India,

iii. Provider and recipient are not merely establishments of a distinct person in accordance with item (b) of Explanation 3 of Section 65B (44).

The learned senior counsel contended that all these conditions were fully satisfied in respect of the services exported by the respondent to Verizon US. That the respondent is located in India, the recipient was located in USA, service provided by the respondent was not specified in section 66D, payment for the service was received in convertible foreign exchange and the provider and recipient were not merely establishments of a distinct person in any manner.

c) That POP provides for place of provision of service. In this regard, the submissions were as under:

i. Rule 3 of POP provides that "the place of provision of a service shall be the location of the recipient of service". The expression "location of the service receiver" has been defined in Rule 2(i) of POP. In the present case, as per the

said definition, location of the service recipient shall be location of business establishment of Verizon US in USA. Accordingly, under Rule 3 of POP, place of provision of service was USA, that is, location of the service recipient.

ii. Rules 4-8 relate to specific cases mentioned in the said Rules and these are undisputedly not applicable to the present case.

iii. In the appeal, for the first time, new allegation has been made that the service provided by the respondent falls under the category of "intermediary service" under rule 9 (c) of POP.

iv. Firstly, this was never the case made out by the Department at any stage. This was not the case either in the Assistant Commissioner's order or in the counter-affidavit filed by the Department before the Hon'ble High Court. Secondly, the expression "intermediary" has been defined in rule 2(f) of POP and during the relevant period, the said definition read as under:

> " "Intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the "main" service") between two or more persons, but does not include a person who provides the main service on his account".

v. The said definition is not satisfied in any way in the present case. The respondent always exported its service to Verizon US on its own account and on principal-to-principal basis, raised its bills on Verizon US and received payments in convertible foreign exchange from Verizon US. The respondent never acted as a broker or agent not it arranged or facilitated any service between two or more persons. There is absolutely no basis or factual foundation for any such allegation nor any such finding was given by the authorities below.

vi. The aforesaid submissions of the respondent relating to meaning and scope of the expression "intermediary" are also fully supported by the following circulars of the Government of India, Ministry of Finance which clearly

show that there is no scope to treat the respondent's export service as intermediary service:

I. Circular no.230/24/2024-GST dated 10.09.2024;

II. Circular no.232/26/2024-GST dated 10.09.2024;

III. Circular no.159/15/2021-GST dated 20.09.2021; and

IV. Service Tax Education Guide dated 19.06.2012 issued by CBEC.

11.7 It was the contention of Sri Bagaria, learned senior counsel for the respondent assessee that since the services provided by the respondent to Verizon US were "export of services", both under Rule 3 of the Rules during "pre negative list" regime and Rule 6A of STR), read with Rule 3 of POP (during the post negative list period), consequential reliefs to the respondent were rightly granted by the High Court in the said case.

11.8 It was further submitted that SLP(C) No.25415 of 2018 has been rendered infructuous vide order dated 06.10.2021 passed by this Court. This was because the dispute was settled by Discharge Certificate in terms of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. That in fact, four writ petitions were filed which

were all allowed by the High Court. Out of the four, WP (C) No.11575 of 2016 related to the show-cause notice No.27/2016 dated 11.11.2016 and the remaining three writ petitions challenged the orders passed by the Assistant Commissioner, rejecting the claims for refund of CENVAT credits on export of services.

11.9 In response to these submissions, learned ASG reiterated that the services rendered by the respondent assessee do not fall within the parameters of the proviso to sub-rule (3) of Rule 3 of the Rules and therefore, the CESTAT was not correct in granting them the benefit of the proviso. It was reiterated that though the service delivered by the respondent-assessee was outside India, nevertheless, it was delivered from India and hence there can be no exemption from payment of service tax.

12. We have analyzed the nature of the activity of the respondent-assessee in light of the parameters delineated in the proviso to sub-rule (3) of Rule 3 and as to, whether, the CESTAT was right in granting benefit of the exclusion from taxable services to the activities of the respondent assessee as being an activity of

export of service. We find that the CESTAT in all these cases has rightly analyzed the activity and granted the relief.

13. We also note that in these cases, what has been determined by the CESTAT are purely findings of facts. We do not find any perversity in the determination of the findings of facts. In the circumstances, we find no reason to interfere with the impugned orders of the CESTAT and the High Court.

14. In the circumstances, we find that the factual determination made by the CESTAT would not call for any re-determination in these appeals. Hence, these appeals are dismissed.

.....J.
(B.V. NAGARATHNA)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
MAY 06, 2025.