

CESTAT RULING

[2010-TIOL-1429-CESTAT-MAD](#)

CCE, Chennai Vs M/s Indian Furniture Products Ltd (Dated: April 28, 2010)

Service Tax – CENVAT Credit – Rent-A-Cab service – Credit is admissible.

[2010-TIOL-1428-CESTAT-BANG](#)

M/s Jaiprakash Gayatri Projects Ltd Vs CST, Hyderabad (Dated: May 3, 2010)

Service Tax – Activity of construction of reservoir and canal meant for irrigation of agricultural land whether 'works contract service' – As per Board Circular No.116/10/2009-ST dtd. 15.9.2009 only work intended for commerce or industry will be liable to service tax under 'works contract service' and not work or services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams – Prima facie case for full waiver of pre-deposit

[2010-TIOL-1426-CESTAT-MAD](#)

M/s Global Tea Brokers Vs CCE, Salem (Dated: June 7, 2010)

Service Tax – Stay/Dispensation of pre-deposit – Auctioning of processed tea – Pre-deposit of 25% of the tax amount ordered following the ratio of [2009-TIOL-638-CESTAT-MAD](#).

[2010-TIOL-1423-CESTAT-AHM](#)

M/s Jain Steels Vs CCE, Rajkot (Dated: September 6, 2010)

Service Tax – Stay/Dispensation of pre-deposit – Banking and Financial Service – Appellants are financing the purchasers and charging interest on the same – Interest charged cannot be taxed under Banking and Financial Service – Prima facie case made out for waiver of pre-deposit.

[2010-TIOL-1420-CESTAT-MAD](#)

Aranthangi Chemicals (P) Ltd Vs CCE, Trichy (Dated: June 29, 2010)

Central Excise – CENVAT Credit – Credit is admissible on CHA service.

[2010-TIOL-1415-CESTAT-MAD](#)

M/s Chettinadu Constructions Vs CCE, Madurai (Dated: June 25, 2010)

Service Tax – Penalty under Section 76 – Penalty at the rate of 2% under Section 76 has to be computed from the date of collecting the tax from the clients, but not paid: The plea of the assesseees for reworking out of the penalty for the reason that penalty at the rate of 2% has been wrongly applied for the entire period to arrive at the quantum of penalty while liability to penalty arises only if the assesseees do not pay even after receipt of the service tax from their clients. The assesseees collected service tax from their customers only during the period from Oct.'06 to Oct.'07 and, therefore, they rightly submit that penalty requires to be recalculated as every day rate has been applied by the authorities below, right from Oct.'06

[2010-TIOL-1414-CESTAT-DEL](#)

M/s Jaiprakash Associates Limited Vs CCE, Allahabad (Dated: August 25, 2010)

Service Tax – Refund – Limitation – Refund of excess service tax paid is governed by the limitation under Section 11 B of the Central Excise Act, 1944 – Contention that the excess amount paid is not tax and the limitation is not applicable is not sustainable – No infirmity in the order of the Commissioner (Appeals).

[2010-TIOL-1413-CESTAT-AHM](#)

M/s Dinesh Chandra Agarwal Infracon Pvt Ltd Vs CCE, Ahmedabad (Dated: August 19, 2010)

Service Tax – Commercial or Industrial Construction Service – Laying of pipeline for supply of water for Gujarat Water Supply and Sewerage Board is not taxable under Commercial or Industrial Construction service - Sale of water is not the primary function of the Board - It is also clear that the water purchased by the Board is being distributed to rural and urban areas for the purpose of irrigation and drinking at different rates which are subsidized and even the operating cost also does not stand recovered by them - Second limb of definition of Commercial or Industrial Construction service is not satisfied – No service tax is required to be levied on the said services.

[Also see analysis of the Order](#)

[2010-TIOL-1412-CESTAT-MAD](#)

Vivek Enterprises Vs CCE, Salem (Dated: June 29, 2010)

Service Tax - Business Auxiliary Service - Processing of goods on behalf of the customers is taxable only with effect from 16.06.2005 - Demand prior to 16.06.2005 set aside.

[2010-TIOL-1411-CESTAT-BANG](#)

CC, Hyderabad Vs M/s Knoah Solutions Pvt Ltd (Dated: June 14, 2010)

Service Tax – Refund claim of accumulated CENVAT Credit on account of export of IT service by STPI registered assessee – *Prima facie* case for entitlement of credit in terms of EXIM policy – Revenue's Stay application rejected: *Stay application rejected*

[2010-TIOL-1405-CESTAT-MAD](#)

Lason India Pvt Ltd Vs CST, Chennai (Dated: July 23, 2010)

Service Tax – Refund of input service tax credit availed for rendering the output service exported – Refund is admissible only on services consumed for providing the output service – Matter remanded in view of the Tribunal order in case of M/s KBACE Tech Pvt Ltd.

[2010-TIOL-1404-CESTAT-MUM](#)

M S Engineers Vs CST, Mumbai (Dated: September 27, 2010)

Completion and finishing services are in relation to Civil Construction – Whether entitled to claim benefit of notification 15/2004-ST, 1/06-ST – while providing service, goods sold to customers on payment of VAT – *prima facie* value of such material is not to be taken into consideration for calculating Service Tax demand – Amount already deposited of Rs.2.28 crores sufficient for purpose of hearing appeal – Stay granted

[Also see analysis of the Order](#)

[2010-TIOL-1403-CESTAT-KOL](#)

CCE, Shillong Vs M/s Ajay Gupta, CA (Dated: July 16, 2010)

Service Tax – In spite of being within threshold limit of exemption under Notfn 6/05-ST, assessee paid service tax collected from clients in FY 2005-06 – No infirmity in imposing penalty of Rs. 1000/- for failure to file returns within stipulated time – No requirement to impose penalty under s.76

[2010-TIOL-1401-CESTAT-MUM](#)

M/s Precision Camshafts Ltd Vs CCE, Pune (Dated: June 17, 2010)

Cenvat Credit on GTA Service – definition of input service substituting the words 'clearance of final products from the place of removal' with 'clearance of final products, upto the place of removal' by notification 10/2008-CE(N.T) dated 01.03.2008 has been made effective w.e.f 01.04.2008 as per clause 1(2) of notification – Commissioner(A) wrongly concluding that notification is effective from 01.03.2008 – appellant entitled to credit taken in March, 2008 as they have satisfied conditions stipulated in Board Circular No. 97/8/2007 dated 23.8.2007 – Appeal allowed.

[2010-TIOL-1397-CESTAT-AHM](#)

Arihant Advance Healthcare Pvt Ltd Vs CST, Ahmedabad (Dated: August 23, 2010)

Service Tax - Levy of service tax on provision of courses on fashion design and interior design - Orders passed by lower authority not on merit but for non-compliance of order of pre-deposit - Since issue involves interpretation of law and requires consideration of all facts, evidences and judicial pronouncements in detail, assessee directed to deposit 50% of tax demand - Matter remanded to Commissioner (Appeals) to pass orders on merits

[2010-TIOL-1394-CESTAT-KOL](#)

M/s Birla Corporation Ltd Vs CCE, Bolpur (Dated: July 26, 2010)

Notification 32/04-ST – consignment notes having necessary declaration – benefit of notification extended by jurisdictional Superintendent after directions of adjudicating authority – other cases benefit denied – Not a fit case for waiver of demand – Pre-deposit ordered as no financial hardship pleaded.

[2010-TIOL-1393-CESTAT-MUM](#)

M/S ISMT Limited Vs CCE, Aurangabad (Dated: August 19, 2010)

Security service utilized in residential colony situated outside factory premises is not an Input Service.

[Also see analysis of the Order](#)

[2010-TIOL-1392-CESTAT-MAD](#)

M/s Simugan Cell World Vs CCE (Service Tax), Trichy (Dated: August 6, 2010)

Service Tax – Business Auxiliary Service – Penalty – Considering the meager amount of commission received and also since the issue is a question of interpretation, penalty under Section 76 and 78 set aside – Penalty under Section 77 upheld.

[2010-TIOL-1385-CESTAT-MAD](#)

M/s S P K Balakrishnan & Co Vs CCE, Madurai (Dated: July 8, 2010)

Service Tax – Demand of service tax on goods transport service received – Plea that the service was received only from individual transport operators, but not from Goods Transport Agency raised for the first time before the Tribunal – Matter remanded to examine the claim of the appellants.

[2010-TIOL-1384-CESTAT-AHM](#)

M/s Hindustan Gum & Chemicals Ltd Vs CCE, Ahmedabad (Dated: September 8, 2010)

Service Tax – Refund of service tax paid on CHA service under Notification No 41/2007 ST dated 06.10.07 used for export of goods – Refund cannot be denied on the ground that challans evidencing the payment of service tax by the CHA were not produced – There is no such requirement under the Notification.

[2010-TIOL-1383-CESTAT-BANG](#)

M/s State Bank Of Hyderabad Vs CCE, Hyderabad (Dated: May 17, 2010)

Service Tax – Business Auxiliary Service/Banking & Other Financial Services – Commission received for collection of taxes, sale of Government of India bonds, Credit cards and Mutual funds whether liable to service tax – Activity of collection of taxes from citizens and deposition in Government treasury would only amount to operation of bank accounts, not covered under category of Banking & Other Financial Services – Prima facie case for full waiver of pre-deposit – Stay granted

2010-TIOL-1380-CESTAT-AHM
M/s Pankaj Tyre Retreads Vs CCE, Ahmedabad (Dated: August 13, 2010)
Service Tax - Tyre Re-treading services – amount not received in its entirety though shown in invoices - actual amounts received to be considered as cum-service tax receipt and corresponding reduction in service tax liability to be worked out in view of s.67(2) of the Finance Act, 1994 – Matter remanded
2010-TIOL-1379-CESTAT-AHM
CST, Ahmedabad Vs M/s Patel Tours & Travels (Dated: July 15, 2010)
Service Tax – Tour Operator Service - Merely because the bus has the permit under 'contract carriage', it does not become the tourist vehicle - Similar and consistent view has been taken by the Tribunal in earlier cases has been affirmed by the High Court of Gujarat – No infirmity in the order of Commissioner in dropping the demand.
2010-TIOL-1377-CESTAT-DEL
M/s Chhaya Agency Vs CCE, Bhopal (Dated: August 26, 2010)
Service Tax – Refund – Service tax paid on procurement of orders on commission basis – Tribunal held that the assessee is not liable to pay service tax – Refund rightly rejected by the lower authorities on the ground of unjust enrichment since the appellants had collected the service tax from the clients – Any refund arising out of court order has to satisfy the bar of unjust enrichment.
2010-TIOL-1376-CESTAT-MUM
M/s Finolex Industries Vs CCE, Pune (Dated: June 17, 2010)
CENVAT credit on Outdoor Catering service, Garden Maintenance service eligible in view of LB decision in GTC Industries Ltd. (2008-TIOL-1634-CESTAT-MUM-LB), and CESTAT decision in ISMT Ltd. 2010-TIOL-27-CESTAT-MUM - Guest House Maintenance service - matter is remanded to examine the issue with regard to the use of the guest house.
2010-TIOL-1372-CESTAT-AHM

M/s Star Energy Systems Vs CST, Ahmedabad (Dated: August 27, 2010)

Service Tax – Individual engaged in provision of erection, commissioning and installation service not liable to pay any service in terms of Notification No. 18/2003-ST – Though service tax levy not challenged in spite of non-requirement to pay service tax, fit case for waiver of penalty in terms of s. 80 – Levy of penalties set aside

[2010-TIOL-1371-CESTAT-AHM](#)

CST, Ahmedabad Vs M/s Transformers & Rectifiers (India) Ltd (Dated: September 9, 2010)

Notification 32/2004-ST - Respondents paying the service tax as per the reverse charge mechanism - question to be decided is how exactly it should be determined as to whether the conditions are fulfilled - Board had clarified in Circular B1/6/2005-TRU dated 27.07.2005 that the endorsement has to be made on the consignment note - Notification, as such, does not stipulate any such condition - requirements prescribed by the Board as per circular cannot be mandatory and cannot be used for denying substantive rights - matter squarely covered by CESTAT decision in Cadila Pharmaceuticals Ltd. [2010-TIOL-625-CESTAT-AHM](#) – Revenue appeals rejected.

[2010-TIOL-1368-CESTAT-AHM](#)

Canny Detective & Security Services Vs CCE, Ahmedabad (Dated: August 27, 2010)

Service Tax – No evidence in the form of inculpatory statements of service provider or recipients, or other documents to prove that assessee provided security service to clients – Demand merely based on PF number obtained for security service, without any corroborative evidence, not sustainable

[2010-TIOL-1367-CESTAT-KOL](#)

M/s Devenchand Ramsaran Industries Pvt Ltd Vs CCE, Dibrugarh (Dated: July 26, 2010)

Giving on hire of "workover of rigs" is based on a contract between them and ONGC and the said contract was for supply of tangible goods; the treating of such activity undertaken in pursuance of the contract as falling under "the management, maintenance and repair service" is prima facie proper – dispute not bonafide so as not to invoke extended period – demand involving extended period is sustainable - Pre-deposit ordered of Rs.75 lakhs.

[2010-TIOL-1366-CESTAT-BANG](#)

M/s Sobha Developers Ltd Vs CCE, Bangalore (Dated: July 12, 2010)

Service Tax – Import of service – Services provided by foreign consultancy firm viz., attending due diligence and drafting sessions with underwriters, company representatives and auditors, conducting legal due diligence etc are in the nature of legal services and not management consultancy service – Recipient liable to service tax only from July 7, 2009 – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-1362-CESTAT-MUM](#)

M/s Mileen Engineers Vs CCE, Mumbai (Dated: August 5, 2010)

No input service is available on the telephone installed at the residence of the executive of the appellants - nowhere it is coming out that the telephone installed at the residence of the Executive are being exclusively used for the business purpose.

[Also see analysis of the Order](#)

[2010-TIOL-1361-CESTAT-BANG](#)

M/s Ultra Tech Cement Vs CCE, Mangalore (Dated: June 7, 2010)

Service Tax – Goods Transport Agency Service – Tax liable to be paid only when service is received from GTA and not truck owners or transporters – Prima facie case for full waiver of pre -deposit – Stay granted

[2010-TIOL-1357-CESTAT-DEL](#)

M/s Sayaji Hotel Limited Vs CCE, Indore (Dated: September 27, 2010)

Service Tax – Mandap Keeper – Cost of Food supplied cannot be deducted under Notification No. 12/2003 – Only abatement under Notification No. 1/2005 can be allowed – Predeposit ordered: levy of sales tax or VAT on the value of food catered by a mandap keeper under State legislation does not alter or affect the levy of service tax under Finance Act, 1994; Taxable services u/s 65 (105)(m) of the Finance Act, 1994, not only includes providing of mandap premises on a temporary basis for organizing any official, social or business functions, but also includes other facilities and services provided in relation thereto including catering; Appellant's argument that because Sales Tax/VAT has been imposed on catering is illogical since service aspect of catering activity has been intended to be taxed by the taxing entry of section 65 (105) (m) of the Finance Act, 1994. The pleading of the appellant that catering service is not to be included in mandap keeper service due to involvement of goods in catering service is untenable for the reason that legislature did not intend to tax value of the goods under the taxable entry of sec.65 (105) (m) of the Finance Act, 1994. There is no disguised commodity taxation made by this law. Only service aspect of catering is intended to be taxed by this entry with appropriate abatement.

[Also see analysis of the Order](#)

[2010-TIOL-1356-CESTAT-AHM](#)

CCE, Rajkot Vs M/s Salient Forge Pvt Ltd (Dated: September 7, 2010)

Respondents engaged in the manufacture of excisable goods and availing the services of GTA - in the capacity of service receiver, they were discharging their tax liability under Notification No.32/2004-ST dated 03.12.04 - Department denying benefit by alleging that declaration under Notification No.12/2003-ST not obtained - most of the transporters whose services were availed by the appellants-manufacturers were not even registered for the purpose of the service tax and, therefore, there is no question of the availment of credit by the GTAs – matter squarely covered by CESTAT decision in Cadila Pharmaceuticals Ltd. ([2010-TIOL-625-CESTAT-AHM](#)) – Revenue appeals rejected.

[2010-TIOL-1355-CESTAT-MAD](#)

CCE, LTU, Chennai Vs M/s EID Parry (India) Ltd (Dated: July 6, 2010)

Service Tax – Storage of buffer stock of sugar as per Government's direction for which payment is received from Government – Not liable for service tax under storage and warehousing service.

[2010-TIOL-1350-CESTAT-MAD](#)

Unity Electro Systems (P) Ltd Vs CCE, Coimbatore (Dated: July 15, 2010)

Service Tax – Penalty – As per Section 73(2A) of the Finance Act, 1994, if an assessee pays the service tax amount along with interest, no SCN is required to be issued and for such amount, there cannot be any penal action – However, in respect of the amount paid after the issue of SCN, penalty upheld as the service tax was collected from the customers and the provisions of Section 80 cannot be applied.

[2010-TIOL-1343-CESTAT-MAD](#)

CCE, Chennai Vs M/s Visteon Automotive Systems (India) Pvt Ltd (Dated: July 13, 2010)

Central Excise – CENVAT Credit – Credit on catering service is not admissible in view of the Tribunal's order in [2010-TIOL-863-CESTAT-MAD](#)

[2010-TIOL-1342-CESTAT-MAD](#)

M/s Sundaram Fasteners Limited Vs CCE, Chennai (Dated: July 5, 2010)

Central Excise – CENVAT Credit – Credit is admissible on input services like vehicle insurance, outstation travel service, group mediclaim policy, canteen equipment and building repair service, cab service and car and vehicle repair services.

[2010-TIOL-1340-CESTAT-AHM](#)

CST, Ahmedabad Vs M/s Citizen Info - Line Ltd (Dated: August 5, 2010)

Service Tax – Business Auxiliary Service – Service of encryption and compilation of data pertaining to clients and provision of details thereof on telephone to callers/prospective customers of clients is 'call centre service' and exempted from service tax till 28.02.2006 under category of BAS – No infirmity in impugned order of Appellate Commissioner – Revenue appeals devoid of merits

[Also see analysis of the Order](#)

[2010-TIOL-1339-CESTAT-BANG](#)

M/s VST Industries Ltd Vs CC, CCE & ST, Hyderabad (Dated: June 10, 2010)

Service Tax – Service Tax – Tax paid on farmer advisory services whether eligible as CENVAT credit for a manufacturer of cigarettes – Service of specialist engaged for advising on usage of proper tobacco seedlings, fertilizers and fungicides for growing tobacco in a particular field, to be regarded as input service in relation to manufacture of final products viz., cigarettes – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-1333-CESTAT-MAD](#)

M/s Chola Business Services Ltd Vs CST, Chennai (Dated: April 26, 2010)

Service Tax – Shelter under Section 80 is not available for delay in payment due to reasons like shortage of funds due to deduction of TDS or change of staff – Penalty upheld.

[2010-TIOL-1332-CESTAT-BANG](#)

M/s Standard Inspirational Precision Engineers Pvt Ltd Vs CCE, Bangalore (Dated: June 7, 2010)

Central Excise – CENVAT Credit – Availment of credit on input services used for both dutiable and exempted final products – Amount of actual credit reversed subsequently covered by retrospective amendment of Rule 6 of CENVAT Credit Rules, 2004 by Finance Act, 2010 – Penalty set aside but interest liable to be paid @ 24% in terms of amended Rule 6

[Also see analysis of the Order](#)

[2010-TIOL-1329-CESTAT-DEL](#)

M/s Career Launcher India Ltd Vs CST, New Delhi (Dated: July 27, 2010)

ST - Coaching Service - whether the study materials gathered by adjudicating authority in terms of show cause notice are treatable as standard text books – whether adjudicating authority traveled beyond SCN - Revenue seeking for time to prove its stand that study materials are included in coaching service – Two months time granted – Status quo to be maintained till then.

[2010-TIOL-1328-CESTAT-BANG](#)

M/s Walzen Strips (P) Ltd Vs CCE, Visakhapatnam (Dated: May 19, 2010)

Service Tax – Business Auxiliary Service – Activity of strapping of wire rod coils online and offline in wire rod mill not classifiable under Business Auxiliary Service, at the most classifiable under Packaging Service – Benefit of Notification No. 8/2005-ST would be available – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-1325-CESTAT-AHM](#)

Ultratech Cement Ltd Vs CCE, Bhavnagar (Dated: June 29, 2010)

Expression "business" appearing in Rule 2(l) of Cenvat Credit Rules is an integrated/continued activity and not confined or restricted to mere manufacture of product - activities in relation to business can cover all activities related to functioning of a business and the expression "business" is of wide import in physical statutes - credit of service tax paid on the vehicle services used in the residential colony of the appellant as also the credit of service tax paid on the insurance of the residential building etc. is allowable – Tribunal decision in Manikgarh Cement v. CCE & Cus. Nagpur ([2008-TIOL-133-CESTAT-MUM](#)), Millipore India Ltd. v. CCE, Bangalore ([2009-TIOL-490-CESTAT-Bang](#)), CCE, Aurangabad v. Endurance Systems India Pvt. Ltd. ([2009-TIOL-210-CESTAT-MUM](#)), CCE, Chennai v. Sundaram Clayton Ltd. [2010-TIOL-69-CESTAT-MAD](#) . relied upon – Appeals allowed with consequential relief.

[2010-TIOL-1324-CESTAT-BANG](#)

M/s Totem Infrastructure Ltd Vs CC, CCE & ST, Hyderabad (Dated: April 26, 2010)

Service Tax – Activity of construction of raw water reservoir not leviable to service tax prior to 01.06.2007 being undertaken as a works contract – Activity also not classifiable as 'Site Formation & Clearance Service' as held by lower authority as it is related to construction of water reservoir – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-1323-CESTAT-BANG](#)

M/s Madras Cements Ltd Vs CCE, Bangalore (Dated: July 12, 2010)

Service Tax – Eligibility of credit of service tax paid on GTA service utilized for outward transportation of goods – Since order passed by LB in ABB Ltd case ([2009-TIOL-665-CESTAT-MUM](#)) is stayed by High Court, dispute back to square one – Prima facie case for waiver of pre-deposit

[2010-TIOL-1320-CESTAT-BANG](#)

M/s Adage Outdoor Advertising (P) Ltd Vs CCE, Hyderabad (Dated: June 14, 2010)

Service Tax – Eligibility of CENVAT Credit on steel used for fabrication and erection of 'unipoles' meant for providing 'advertising service'- 'Input' defined to mean all goods , except LDO, HSD, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service – Prima facie case in favour of appellants – Full waiver of pre-deposit ordered and stay granted

[2010-TIOL-1319-CESTAT-MUM](#)

Kalsis Kitchenette Vs CCE, Pune (Dated: September 16, 2010)

In terms of agreement entered into with National Institute of Bank Management, appellant only to prepare food and serve in the institute canteen 'Activity not taxable under the head 'Outdoor Catering Service' however, appellant paying tax and interest 'bonafide belief strengthened by CESTAT decision in Rajeev Kumar Gupta - Penalty u/s 78 not imposable

[Also see analysis of the Order](#)

[2010-TIOL-1314-CESTAT-DEL](#)

M/s Idea Mobile Communication Ltd Vs CCE, Meerut (Dated: July 30, 2010)

Service Tax – Denial of CENVAT Credit – principles of natural justice: copies of relied documents to be provided; The rules of principles of natural justice require that before any document is relied upon to ascertain the liability of the assessee, the copy thereof should be made available to the assessee except in case where there are statutory prohibition for providing such copies or some other justifiable reason.

Procedural irregularity to be ignored; Rule 9(2) apparently gives discretion to the adjudication authority to ascertain whether tax due on inputs and input service has actually been paid and such input or input service has actually be used or is to be used in the manufacture of final products or in providing output service as the case may be, and if satisfied in this regard, to give necessary concession to the assessee in relation to any procedural irregularity in relation to maintenance of documents on the basis of which CENVAT credit can be availed.

Original invoices available – but not verified – matter remanded: It is the contention of the appellants even today that all the original invoices are available for the purpose of verification. In such case while remanding the matter, it is observed that the adjudicating authority ought to consider all original invoices.

[Also see analysis of the Order](#)

[2010-TIOL-1313-CESTAT-BANG](#)

M/s Zenith (Bangalore) Rollers Pvt Ltd Vs CCE, Hyderabad (Dated: May 31, 2010)

Service Tax – Activity of re-rubberization of used rollers in printing industries whether Business Auxiliary Service or Management, maintenance & repair service – Issue involved being a dispute on classification of service, matter to be taken up in detail at final hearing – SCN issued in 2008 without considering assessee's letter addressed to Department in 2004 regarding provision of service and claim of exemption, prima facie barred by limitation – Full waiver of pre-deposit allowed and stay granted

[2010-TIOL-1308-CESTAT-MUM](#)

Divisional Controller, MSRTC, Amravati Vs CCE, Nagpur (Dated: September 3, 2010)

MSRTC allowing some of their buses to be hired by various agencies for conducting tours in connection with picnic, marriage, student excursion etc – Revenue has no case that the buses given to private agencies against hire charges were covered by any such permit granted under the Motor Vehicles Act/Rules – MSRTC was, prima facie, not required to get registered as "Tour Operator" with the department – Stay granted

[Also see analysis of the Order](#)

[2010-TIOL-1307-CESTAT-AHM](#)

M/s Manubhai & Co Vs CST, Ahmedabad (Dated: September 17, 2010)

Notification 12/2005-ST – Refund of service tax paid on input services used in exported services - Procedural requirement cannot be used to deny a substantive benefit – filing of declaration after effecting exports not a ground to deny refund – CST Delhi Vs. Convergys India Pvt. Ltd. ([2009-TIOL-888-CESTAT-DEL](#)) CST Delhi Vs. Keane Worldzen India Pvt. Ltd. ([2008-TIOL-496-CESTAT-DEL](#)) relied upon – however, matter remanded to the original adjudicating authority to consider the eligibility of the appellant for refund in terms of conditions and limitations in the notification.

[2010-TIOL-1306-CESTAT-BANG](#)

M/s Sri Chaitanya Education Committee Vs CCE, Guntur (Dated: June 14, 2010)

Service Tax – Commercial training or coaching service – Amendment brought in Finance Act, 2010 for taxing services provided for a consideration irrespective of profit motive by a commercial training or coaching center whether or not registered as a society or trust, silent on question of limitation – Prima facie case for full waiver of pre-deposit – Stay granted

[2010-TIOL-1302-CESTAT-MUM](#)

EBZ Online Pvt Ltd Vs CCE, Pune (Dated: July 23, 2010)

Repair and maintenance of Software – since Board's Circular 70/19/2003-ST, dated: December 17, 2003 was withdrawn only on 10.05.2007, maintenance of Software is not chargeable to Service Tax till 9.5.2007 – Prima facie case in favour – Pre-deposit waived and stay granted

[Also see analysis of the Order](#)

[2010-TIOL-1301-CESTAT-MAD](#)

M/s Nippon Thermostat (India) Ltd Vs CST, Chennai (Dated: July 1, 2010)

Service Tax – Service tax on Intellectual Property Services received from abroad – Service Tax liability arises only with effect from 18.04.2006.

[2010-TIOL-1298-CESTAT-AHM](#)

M/s Angel Industries Casting Vs CCE, Rajkot (Dated: June 30, 2010)

Service Tax – Construction Service rendered in 2004-05 but consideration received in 2006-07 and tax deposited @ 10% rate prevailing in 2004-05 – Differential tax paid with interest and levy of excess penalty contested – In view of Tribunal decision in Reliance Industries Ltd = [2008-TIOL-283-CESTAT-AHM](#) holding effective rate of tax would be rate applicable on date of rendering service, no penalty imposable – Matter remanded