

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 22045 of 2014

(Arising out of Order-in-Original No. 21/2014 dated 06.03.2014
passed by the Commissioner of Service Tax, Bangalore.)

**M/s. Chariot World Tours
Limited,**

2nd Floor G.R. Arcade, 14th Cross,
Sampige Road, Malleswaram
Bangalore - 560 003.

Appellant(s)

VERSUS

**The Commissioner of Service
Tax, Bangalore Service Tax
Commissionerate,**

TTMC-BMTC Complex,
Old Airport Road, Domlur,
Bangalore - 560 071.

Respondent(s)

With

Service Tax Appeal No. 22046 of 2014

(Arising out of Order-in-Original No. 22/2014 dated 06.03.2014
passed by the Commissioner of Service Tax, Bangalore.)

**M/s. Chariot World Tours
Limited,**

2nd Floor G.R. Arcade, 14th Cross,
Sampige Road, Malleswaram,
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Bangalore - 560 071.

Respondent(s)

APPEARANCE:

Mr. Pradyumna G.H., Advocate for the Appellant

Mr. Vikalp Jain, Superintendent (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 20488 – 20489 /2026

DATE OF HEARING: 16.10.2025

DATE OF DECISION: 13.04.2026

PER : DR. D.M. MISRA

These two appeals are filed against respective Orders-in-Original passed by the Commissioner of Central Excise and Service Tax, Bangalore since involve common issues are taken up together for hearing and disposal.

2. Briefly stated facts of the case are that during the relevant period from April 2010 to March 2012, the appellants are engaged in the activity of providing taxable services under the category of 'Tour Operator Service' but failed to discharge service tax on international package tours provided to Indian Tourists/customers. Consequently, a show-cause notice was issued to them on 04.06.2012 demanding service tax of Rs.50,04,332/- for the period from April 2010 to March 2011 and another show-cause notice was issued on 18.10.2012 demanding service tax of Rs.59,73,706/- for the period from April 2011 to March 2012. On adjudication, the demands were confirmed with interest and penalty. Hence, the present appeals.

3. At the outset, the learned advocate for the appellant has submitted that the taxable service as defined under Section 65(105)(n) of the Finance Act, 1994 means '*any service provided or to be provided to any person by a 'tour operator in relation to a tour'*'. In the present case, no doubt the services rendered by the appellant fall within the scope of definition of 'Tour Operator Service'; however, the same had been rendered to Indian nationals in relation to foreign tours; therefore, the services provided by the appellant be treated as Export of Services since covered under Rule 3 of Export of Service Rules, 2005. Referring to the provisions of Rule 3 of Export of Service Rules, 2005, he has submitted that Clause (c) of the said Rule

makes it clear that services separately mentioned in subrule (1)(i)(ii)(iii) of Rule 3 and subrule (2) of Rule 3 shall be treated as export of services. He further submits that taxable services, if provided in relation to an immovable property situated outside India, services performed outside India or partly performed outside India and services provided in relation to business or commerce to a recipient located outside India as defined under subrule 1(i)(ii) and (iii) of Rule 3 and services provided from India and used outside India and payment of such service is received by the service provider in convertible foreign currency as per subrule (2) of Rule 3 shall be treated as 'Export of Services. He has submitted that in the present case, the tour operator service provided by the appellant is covered by the scope of export of service as per subrule 1(ii) of Rule 3 of Export of Service Rules, 2005 since services rendered in relation to conducted or packaged tours to overseas destination are performed outside India except for the activities like registration, visa processing, etc., which are carried out in India. He further submits that subrule (1) and subrule (2) of Rule of Export of Service Rules, 2005 are distinctly independent of each other as the two provisions cater to different situations in as much as while subrule (1) deals with location of the property and the place of performance of the service, subrule (2) caters to the place of consumption of the taxable service; while subrule (1) is an activity which needs to be performed outside India or to immovable property located outside India or to recipient located outside India to qualify as export, under subrule (2), a service will be deemed to be a export if it is performed in India for use outside India and payment for such services is received in convertible foreign currency which means the condition of receipt of the convertible foreign currency is specific only to services provided in terms of subrule (2). He has contended that the services mentioned under subrule (2) shall be treated as export of service even if these are provided in India and used outside India and the payment is received by the service provider in convertible foreign currency. He has submitted that the learned

adjudicating authority has held that appellant should have received the payment in convertible foreign currency so as to qualify the service as export of service but failed to appreciate various other submissions put forth by the appellant before him. It is manifestly clear that the appellant had performed the taxable service outside India and the condition of receiving payments in foreign currency is not applicable to taxable services mentioned under subrule (1)(ii) of Rule 3 of Export of Service Rules, 2005. The Indian tourist should have paid the consideration to the appellant in foreign currency towards the tour of foreign country as interpreted by the adjudicating authority leads to absurdity as country would not gain any foreign exchange.

4. In support, he has referred to the judgment of Division Bench of the Tribunal in the case of **Cox & Kings India Ltd. and Others vs. Commissioner of Service Tax, New Delhi: 2014 (35) STR 817 (Tri.-Del.)**. The said judgment was appealed before the Hon'ble Supreme Court; however, it was dismissed on the ground of delay. He submits that this issue is no more *res integra* and stands covered in favour of the appellant; except for ticket booking, which falls under the taxable category of 'Business Auxiliary Service' and the demand is not disputed by the appellant. He has submitted that for the previous period October 2007 to March 2009 and April 2009 to March 2010, service tax was demanded on the same ground for providing outbound tours to Indian tourists and the matter reached before the Tribunal and the Tribunal vide order dated 23.07.2014 remanded the matter for *de novo* examination and the learned Commissioner (A) following the order of the Tribunal in Cox & Kings India Ltd's case. (supra) allowed the appeal. Further, he has submitted that Principal Bench of CESTAT in the case of Indian Holiday Pvt. Ltd. following the judgment of Larger Bench of the Tribunal vide Interim Order No.104/2023 in Cox & Kings India Ltd.'s case (supra), decided the issue in favour of the assessee.

5. On the issue of limitation, he has submitted that since the case involve interpretation of law and the matter was referred to Larger Bench, hence, the appellant cannot be held guilty of suppression of facts and the department was fully aware of the issue due to earlier litigation at the time of issuance of show-cause notice itself; therefore, invoking extended period of limitation in confirming the demand for the period April 2010 to March 2011 cannot be sustained; also, imposition of penalty is unsustainable. He further submits that service tax was not paid on a *bona fide* belief which constitutes reasonable cause for invoking Section 80 of the Finance Act, 1994, as was in force during the relevant time.

6. Learned Authorised Representative (AR) for the Revenue, reiterating the findings of the learned Commissioner, submitted that the appellant had provided Tour Operator Service as defined under Section 65(105)(n) of the Finance Act, 1994. He submits that it is the claim of the appellant that since the Indian tourists visit outside the territory of India as part of international tour, therefore, service tax is not attracted on outbound tours. Countering this submission, he submits that judgment of the Principal Bench in the case of Cox & Kings India Ltd. (supra) was differed by a Division Bench of Mumbai and accordingly, Larger Bench was constituted by the President. The Larger Bench heard the matter and answered the reference observing that for the period prior to Negative List regime, as long as both receiver and provider were in India, such services are taxable. He has submitted that the said judgment of the Larger Bench of the Tribunal is binding and any deviation by any Bench of the Tribunal cannot be a binding precedent. Further, the learned AR submitted that even though the earlier notices were issued to the appellant on the same issue, however, extended period of limitation is applicable; and for the demands pertaining to the period April 2010 to March 2011 as the appellant had suppressed the correct value of the services rendered in their ST-3 Returns when compared to their balance sheet for the said financial year;

therefore, the Commissioner was justified in invoking and confirming the extended period of limitation.

7. Heard both sides and perused the records. The limited issue for consideration in both the appeals is, whether outbound international tours service provided to Indian tourist by the appellant as a tour operator is leviable to service tax under the category of 'Tour Operator Service' as defined under Section 65(105)(n) of the Finance Act, 1994.

8. The principal contention of the appellant in the present appeals is that since the Indian tourists are visiting outside the territory of India in receiving the tour services, even though the consideration is not paid in convertible foreign exchange, the use of services are outside the territorial limits of India, hence, service tax is not leviable. We find that the argument of the appellant is mainly based on the judgment of the Division Bench of the Principal Bench of the Tribunal in the case of Cox & Kings India Ltd. (supra) which was disagreed by another Division Bench of the Tribunal in Mumbai. Hence, the issue later was referred to Larger Bench of the Tribunal. The Larger Bench after examining the definition of 'Tour Operator Service' as evolved from time-to-time observed as follows:

"44. From the analysis and reasons elaborated above, it can safely be deduced that the decision of the Principal Bench in Cox & Kings, based on validation of the Circular of 1997 as not being impacted by the several changes in the definition of "tour operator", may not be applicable in case of "outbound tours" over the period of time that the activity had been taxable.

45. Several aspects of the relevant definitions and even the evolution of the extent of coverage of the levy intended by section 65(105)(n) of the Finance Act must inform the resolution of any dispute over taxability of consideration received by an Indian entity for rendering service in relation to "outbound tours" commencing in India. The intent of Finance Act is to tax specified activity that, undeniably, takes place in India and to exclude tax on any activity that, undeniably, does not occur in India. The

definition of "taxable service" must fit within that framework for it to be applicable.

46. There can, thus, be no two opinions about taxability of tours undertaken within India. However, the definition in section 65(105) of Finance Act is not limited to the physical aspect but also the precursor preparation which is taxable on its own standing within the scope permitted by section 65(105)(n) of Finance Act. Such evaluation of extent of taxability cannot be decided upon without reference to the factual aspects of the activity sought to be brought within the tax net by service tax authorities.

47. The earlier decision in Cox & Kings had not determined its decision on the given set of facts but on restricted interpretation of the definition of "tour operator" as prevailing then. The stated interpretation of the definition is not consistent with the revision in the definition. Hence, the division bench assigned to dispose off this appeal will have to decide the outcome without placing reliance on the interpretation of the Principal Bench relied upon by the appellant. All the issues in the appeal as well as the order impugned therein will have to be decided on merits.

48. The referral bench at Mumbai also sought opinion of larger bench on the provision of service by appellant within the taxable territory. As seen from the facts of the case, the dispute in its entirety pertains to the period prior to April 2011. The then prevailing regime of tax on services was limited to enumerated activities rendered to a person (or designated recipient) by a person and there was no requirement for determining "taxable territory" for levy of tax; as long as both receiver and provider were in India, such services were taxable. With the transition in July 2012 to "negative list", lacking identifiable activities to be taxed, the framework of levy was to be expressed as provision of service for another within "taxable territory" for default liability in the hands of provider of service. Therefore, in the dispute before the division bench, geographical significance was not "taxable territory", which could be situated anywhere in the world according to the nature of activity undertaken, but within "whole of India..." without having to look for any other framework.

49. Accordingly, we answer the reference thus:

- (i) The taxability of activity undertaken by the appellant will have to be decided on the facts peculiar to the case and in accordance

with intent of section 65, section 66 and section 67 of the Finance Act; and

- (ii) The dispute in this appeal, i.e., from 01.04.2005 to 31.03.2011, pertaining to the period prior to the "negative list" regime does not have to consider "taxable territory" as affecting the decision thereon."

As far as the applicability of service tax to Tour operators in India for services rendered to Indian tourists, who visit outside the territory of India, the Larger Bench of the Tribunal has been categorical in observing that determination of 'taxable territory' for levy of tax as long as both receiver and provider are in India, does not require consideration and opined that the tour services rendered are taxable for the period prior to introduction of negative list regime. Applying the said principle to the facts of the present case, we are of the view that the outbound tours provided by the appellant to Indian tourists during the relevant period i.e., from April 2010 to March 2012 is taxable under the category of 'Tour Operator Service'. The judgments of Bench of lesser strength contrary to the ratio laid down by the Larger Bench cannot be considered as a binding precedent. As far as the allegation of suppression of facts in confirming the demands by invoking extended period of limitation is concerned, we are of the opinion that since the issue is of interpretation of law and has been referred to Larger Bench due to conflicting views; therefore, the demand should be confined to normal period of limitation and also penalty cannot be imposed.

9. In the result, the impugned orders are modified confirming the demand with interest for the normal period of limitation and setting aside penalty. Appeals are disposed of, accordingly.

(Order pronounced in Open Court on 13.04.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)