

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH AT HYDERABAD**

Division Bench - Court No. - I

**Service Tax Appeal No. 2820 of 2012**

(Arising out of **Order-in-Original** No.15/2012-Adjn.(ST)(Commr.), dated 17.07.2012  
passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

**United Port Services Pvt Ltd.,** .. **APPELLANT**  
#8-2-418, 3<sup>rd</sup> Floor,  
Meenakshi House,  
Road No. 7, Banjara Hills,  
Hyderabad - 500 034.

*VERSUS*

**Commissioner of Central Excise,** .. **RESPONDENT**  
**Customs and Service Tax**  
**Hyderabad - II**  
L.B. Stadium Road,  
Basheerbagh, Hyderabad,  
Telangana - 500 004.

**WITH**

**Service Tax Appeal No. 22246 of 2015**

(Arising out of **Order-in-Original** No.HYD-SVTAX-COM-000-08 & 09-15-16 dated  
18.09.2015 passed by Commissioner of Service Tax, Hyderabad)

**United Port Services Pvt Ltd.,** .. **APPELLANT**  
#8-2-418, 3<sup>rd</sup> Floor,  
Meenakshi House,  
Road No. 7, Banjara Hills,  
Hyderabad - 500 034.

*VERSUS*

**Commissioner of Central Excise,** .. **RESPONDENT**  
**Customs and Service Tax**  
**Hyderabad - II**  
L.B. Stadium Road,  
Basheerbagh, Hyderabad,  
Telangana - 500 004.

**AND**

**Service Tax Appeal No. 31287 of 2017**

(Arising out of **Order-in-Appeal** No.HYD-SVTAX-HYC-APP-046-17-18 (APP-I) dated  
31.10.2017 passed by Commissioner of Customs & Central Tax, Hyderabad)

**United Port Services Pvt Ltd.,** .. **APPELLANT**  
#8-2-418, 3<sup>rd</sup> Floor,  
Meenakshi House,  
Road No. 7, Banjara Hills,  
Hyderabad - 500 034.

*VERSUS*

**Commissioner of Central Excise,** .. **RESPONDENT**  
**Customs and Service Tax**  
**Hyderabad - II**  
L.B. Stadium Road,  
Basheerbagh, Hyderabad,  
Telangana - 500 004.

**Appearance**

Shri V. Ravindran, Advocate for the Appellant.

Shri A. Rangadham, Superintendent for the Respondent.

**Coram: Hon'ble Mr. S.K. MOHANTY, MEMBER (JUDICIAL)**  
**Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No. A/30849-30851/2020**

Date of Hearing:21.02.2020

Date of Decision:21.02.2020

**[ORDER PER: P.V. SUBBA RAO]**

1. All these appeals filed by the appellant involve common issues and hence they are being disposed of together.

2. The appellant is registered with the department as a service provider under the head port services and has been discharging service tax as such. During audit of their returns, ledgers and balance sheets, the department found that they had not discharged service tax on the following:

- i) Water supply / sale to customers in the port
- ii) Renting of immovable property
- iii) Transport of goods by road

Accordingly, show cause notices were issued demanding service tax on these services along with interest and also proposing to impose penalties upon the appellant. In one of the notices, they were also alleged to have made excessive adjustment of service tax. In all these notices it is proposed to recover service tax along with interest and impose penalties. These show cause notices were adjudicated by the impugned orders against which the present appeals have been filed. The details of the 3 appeals are as follows:

Appeal No.	Period of Dispute	Impugned Order Ref.	Demand on	Service Tax demanded (Rs)	Penalty (Rs)
2820/ 2012 **	2005-06 to 2009-10	OIO NO. 15/2012 dt.17.07.2012 of Respondent	1.Sale of Water	2,84,28,406	3,05,83,495 u/r Sec.78 & 10,000 u/r Sec.77
			2.Renting of immovable property	21,30,184	
			3. GTA	24,905	
**By Misc. Order No. 20015-20016/2014 dt. 03.01.2014, the CESTAT granted waiver for 1 & 2 and for 3, the amount of Rs. 24,905 was deposited, as per order.					
22246/ 2015 @@	01.07.2012 to 2013-14	OIO NO. 08 dt.18.09.2015 of Respondent	1.Sale of Water	50,05,799	10,000 u/r Sec.77 &
			2.Alleged excess adjustment of	25,71,854	

			Service Tax		75,77,653 u/r Sec.78
		OIO NO. 09 dt.18.09.2015 of Respondent	Sale of Water	1,20,54,402	12,05,440 u/r 76 & 10,000 u/r Sec.77
@@ Mandatory pre-deposit of @ 7.5 viz. Rs.14,72,404/- paid					
31287/ 2017 ##	1,34,16,83 0	OIA NO. 046-17- 18(App.I) dt.31.10.2017	Sale of Water	1,34,16,830	Penalties set aside in appeal
##Mandatory pre-deposit of @ 10% viz.Rs.13,41,683/- paid					

3. Heard both sides and perused the records. Learned Counsel for the appellant would submit that he is not contesting the demand on GTA services and the amount has already been paid and is only praying that the penalty may be set aside as far as this demand is concerned. Thus, the issues which fall for consideration in these appeals are:

- a) Whether the appellant is liable to pay Service Tax on (i) Sale of water; (ii) Renting of Immovable Property; and (iii) Demand on Goods Transport Agency Service during the periods of dispute in the three appeals?
- b) Whether a demand for Service Tax on the aforesaid amounts could be raised invoking extended period of limitation under Section 73 of Chapter V of the Finance Act, 1994?
- c) Whether a demand has been correctly raised in Appeal no. ST 2226/2015 on the ground of alleged excess adjustment of Service Tax?
- d) Whether interest is chargeable on the above amounts under Section 75 of Chapter V of the Finance Act, 1994
- e) Whether penalties are imposable upon the appellant under Sections 77 & 78 of the Finance Act, 1994?

As far as the demand of service tax on supply of water is concerned, it is submitted by the Learned Counsel for the appellant, that the impugned orders are vague as they did not clearly state as to what was sought to be taxed, i.e., whether it is a service rendered by the appellant towards supply of water or the water supply itself. The notices relied upon the water sales ledger. Water supply done by the appellant is actually a sale of water which is outside the purview of the Finance Act, 1994 and was also specifically excluded during a negative list period in view of Section 66D(e) of the Finance Act, 1994. The appellants have declared the turnover relating to

sale of water in their VAT returns filed with the State Government as a part of exempted turnover and all documentary evidence clearly confirms that the consideration in question was received by the appellant only for sale of fresh water and not for any service.

4. They have not only sold the water but also have purchased it and have produced their purchase invoices for fresh water. It is a sale of water under the Andhra Pradesh VAT Act and the same cannot be considered as taxable service. In fact, not only has the sale of water been declared in their VAT returns, there has been correspondence with the State Government regarding the eligibility of exemption or otherwise from VAT on the sale of water. The cost of water has been indicated based on the quantity (kilo litres) of water sold and it is not for service. Water is also a commodity subject to excise duty under Chapter 22 of the Central Excise Tariff Act, 1985.

5. Without prejudice to the above arguments, he would submit that even as per CBEC's Circular No. 334/1/2012-TRU dated 16.03.2012 [Para 2.5.3], it is clarified that where the dominant nature of a transaction is sale of goods or immovable property then such transaction would be treated as such. In the present case, the dominant nature of the transaction is obviously sale of water and hence it is not a taxable service.

6. He also submits that on identical facts in respect of another assessee, the Joint Commissioner of the same Commissionerate has already dropped the demand of service tax on supply of water against Kakinada Marine Off-shore Company (Order-in-Original No. KKD-EXCUS-JC-70/2016-17 dated 21.12.2016). This order of the Joint Commissioner has not been challenged by the Revenue and hence the issue has reached a finality and the Department cannot take a different position in their case.

7. He submits that in the impugned order, the Learned Commissioner had referred to the validity of exemption Notification No. 31/2010-ST and its subsequent rescinding. The exemption notification itself is not relevant in the present case because the dominant nature of the transaction here is sale of water and not rendering any service. They charge the customers for the water sold. They have purchased the water from their suppliers at a lower price than their sale price and thus earned a profit. Therefore, no service tax can be levied upon them on the value of sale of water under any of the impugned orders and the same needs to be set aside.

8. On the question of demand of service tax on renting of immovable property, he would submit that the demand under this head was only in one of the impugned orders - Order-in-Original No. 15/2012 dated 17.07.2012 (ST/2820/2012). In this case, the demand has been made as on verification of the financial records of the appellant and it was noticed that they had collected advance towards bunker charges during the period 2007-08 and 2008-09 from their customer M/s Asian Tanking Pvt Ltd. It is recorded in the show cause notice that the appellant had received the advances for construction of terminal which in turn was used for bunkering. Having correctly recorded these facts, the show cause notice dated 22.10.2010, in its para 4.2 comes to the conclusion that the amount was an advance paid by M/s Asian Tanking Pvt Ltd., towards hiring or renting of bunkers. Thus a demand has been made on renting of immovable property services. He would submit that the advances have been received from their customers for construction of a terminal which is to be used for bunkering. The activity has not come to fruition and in terms of their agreement they were entitled to retain the advances received which they did. There is nothing in the show cause notice to show that they have rented any immovable property and collected rent for the purpose. Merely, because they have received some amount from their customers it does not mean that they are liable to pay service tax on such amounts unless it can be shown that the amounts were received towards rendering a taxable service which in this allegation is renting of immovable property. Revenue has not discharged this onus as far as this demand is concerned.

9. As far as the demand of service tax on GTA service is concerned, Learned Counsel submits that they are not contesting this and have already paid the amount and is only praying that the penalties may be set aside.

10. As far as the alleged excess adjustment of service tax is concerned, he would submit that the show cause notice does not dispute that there was excess payment of service tax made by them to the extent of Rs. 25,71,845/- which was adjusted. This excess payment was on account of arithmetical mistake and not on account of any reasons given in Rule 6(4b) of Service Tax Rules, 1994 and therefore, the limits prescribed under Rule 6(4b) during the material time would be irrelevant. Further, all adjustments were made in cenvat account only and therefore adjustment would amount only to rectifying the accounting errors.

11. Adjustments of service tax were due to clerical errors and the adjustments were also reflected in respective returns. Intimations were also sent by post. The intimations and returns are consistent with each other and therefore there was no fraud, mis-representation, etc. The impugned order takes a position that any tax payment or adjustment has to be done immediately in the following month only. The impugned order is silent about the intimation sent by post. Once it is undisputed that the returns reflected the adjustments but only that they did not state when the excess payment occurred, the extended period of limitation cannot be invoked and the demand is beyond the normal period of limitation.

12. With respect to all the demands, the Learned Counsel also disputes the invocation of extended period of limitation and imposition of penalties.

13. Per contra, Learned Departmental Representative vehemently supports the impugned orders.

14. We have gone through the records of the case, and considered the arguments on both sides. It would be profitable to briefly review the relevant Constitutional and legal provisions related to service tax.

### **Constitutional provisions**

15. No tax shall be levied or collected except by authority of law as per Article 265 of the Constitution of India. The subjects on which the laws can be made by the Parliament and States are specified in Article 246 which empowers the Parliament to make laws with respect to any subject in List I (Union List) and the State Legislatures to make laws with respect to any subject in List II (State List) of the seventh schedule of the Constitution. Both can legislate on the subjects in List III (concurrent list). All residuary powers are given to the Parliament by Entry 97 of List I as '*Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists*'. Thus, the Parliament has unlimited power of taxation on any subject not covered in the State List or Concurrent List, subject only to the provisions of the Constitution.

16. Among the powers of taxation of the States is the power to impose "*taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I*" (Entry 54 of List II). Entry 92A of List I empowers the Union to impose taxes on sale or purchase of goods in inter-state trade. Thus, the intra-state sale and purchase of goods can be taxed

by the States while inter-state trade can be taxed by the Union. An interesting question of law was before the Constitutional bench of the Hon'ble Apex Court in the case of *Gannon Dunkerly & Company (Madras) in Civil Appeal No. 21 of 1956 decided on 01.04.1958 [published in 2015 (330) ELT 11 (SC)]* The Provincial Government of Madras imposed tax on deemed sale of goods which were not actually sold but were used by builders in executing composite works contracts. Builders often undertake composite works contracts and bill the customer a total sum for the construction including both their services and the value of the goods to be used. The Government of Madras province levied Sales tax on the value of the goods used in composite works contracts treating such use as deemed sales. The Government of India Act, 1935 under which the law was passed by the Provincial Government of Madras distributed powers between the Provinces and the Centre in a manner similar to the distribution of powers under the Seventh Schedule of the Constitution. The Hon'ble Apex Court held that the Provincial Government of Madras had no legislative competence to levy the tax on the deemed sales of goods in a works contract since composite works contracts were a separate specie of contracts known in the commercial parlance and taxing them was not included in List II (state list) of the Government of India Act, 1935.

17. This judgment of the Hon'ble Apex Court was studied by the Law Commission and it made three alternative recommendations to amend the constitution to give the power to the State Governments to tax deemed sale of goods used in works contracts. One of these recommendations was accepted and the Parliament made the Constitutional Forty Sixth Amendment in 1982 by inserting clause 29A in Article 366 (Definitions clause) as follows:

*(29A) "tax on the sale or purchase of goods" includes—*

*(a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;*

*(b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;*

*(c) a tax on the delivery of goods on hire purchase or any system of payment by instalments;*

*(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;*

*(e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;*

*(f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;*

Thus, by the 46<sup>th</sup> amendment, the constitutional position has been modified by inserting an enlarged definition of 'tax on sale or purchase of goods'. Before the amendment, the scope of taxation of the States was limited and everything else fell under the purview of the Parliament under entry 97 as residuary power to tax. By the 46<sup>th</sup> amendment, Parliament truncated its own powers and expanded the powers of the state to that extent.

18. The implications of these constitutional provisions is that if something falls explicitly within the legislative competence of the State to tax as sale or purchase of goods after introduction of clause 29A under Article 366, it no longer falls under "any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists" as per Entry 97 of List I and hence is out of the legislative competence of the Parliament to tax. Thus, the power of the State to levy VAT/Sales tax and the power of the Union to levy service tax are mutually exclusive.

### **Legal provisions**

19. For a tax to be levied, a taxable event (such as sale, purchase, manufacture, import, export, earning income, etc.) must occur and such taxable event must be covered by the charging section of the Act. Imports, for instance, can be taxed under the Customs Act, intra-State sale and purchase under the Sales tax/ VAT Act of the state, rendition of a service can be taxed under the service tax laws (Chapter V of Finance Act, 1994).

**Various taxing statutes are mutually exclusive inasmuch as the charging sections in different statutes tax different taxable events.**



20. Service tax is levied under Chapter V of the Finance Act, 1994 section 66 of which is the charging section. If a taxable service as defined in Section 65 (105) is rendered, service tax can be charged under Section 66. This section reads as follows:

**Section 66:** *There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g,) (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzk), (zzl), (zzm), (zzn), (zzo), (zzp), (zzq), (zsr), (zss), (zst), (zsu), (zsv), (zsw), (zsz), (zzy), (zzz), (zza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg,) (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzzza), (zzzzb), (zzzzc), (zzzzd), (zzzze), (zzzzf), (zzzzg), (zzzzh), (zzzzi), (zzzzj), (zzzzk), (zzzzl), (zzzzm) (zzzzn), (zzzzo), (zzzzp), (zzzzq), (zzzzr), (zzzzs), (zzzzt) (zzzzu), (zzzzv) and (zzzzw) of clause (105) of section 65 and collected in such manner as may be prescribed.*

21. The two taxable services alleged to have been rendered which are in dispute in these appeals are:

- a) Port Services under Section 65 (105) (zn) read with section 65(82)
- b) Renting of Immovable property service under Section 65 (105 (zzzz) read with section 65 (90a).

22. Taxable services are usually defined in Section 65 (105) by the nature of the service. However, as far as Port Services are concerned, taxable service is defined under Section 65 (105) (zn) as any service provided to any person by any other person, in relation to port services in a port, in any manner. The term port service is defined in section 65 (82). These sections read as follows:

**Section 65 (82)** *“Port service” means any service rendered within a port or other port, in any manner.*

**Section 65 (105) (zn)** *“Taxable service” means any service provided or to be provided to any person, by any other person, in relation to port services in a port, in any manner.*

*Provided that the provisions of Section 65A shall not apply to any service when the same is rendered wholly within the port.*

23 Renting of immovable property service is covered in Section 65 (105) (zzzz) read with section 65 (90a) which read as follows:

**“Renting of immovable property”** includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

- (i) renting of immovable property by a religious body or to a religious body; or
- (ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

Explanation.—For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings;

[Explanation 2.- For the removal of doubts, it is hereby declared that for the purposes of this clause “renting of immovable property” includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property.

(Section 65 (90a) of Finance Act, 1994 as amended)

“**Taxable Service**” means any service provided or to be provided to any person, by any other person, by renting of immovable property or any other service in relation to such renting for use in the course of or, for furtherance of, business or commerce.

**Explanation 1.**—For the purposes of this sub-clause, “immovable property” includes—

- (i) building and part of a building, and the land appurtenant thereto;
- (ii) land incidental to the use of such building or part of a building;
- (iii) the common or shared areas and facilities relating thereto; and
- (iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate, but does not include-
  - (a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;
  - (b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;
  - (c) land used for educational, sports, circus, entertainment and parking purposes; and
  - (d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

**Explanation 2.**—For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce.

(Section 65 (105) (zzzz) of Finance Act, 1994 as amended)

Unlike other services which are defined by the nature of the service, Port Service is by the place where the service is provided. As long as any service is provided within the Port, it is Port Service and the nature of the service is immaterial. If any service is provided by the appellant within a port or “other port”, it is taxable under Port Service and not otherwise. Major ports have been defined as “ports” and others as “other ports” under Chapter V of Finance Act, 1994.

24. **Sale of Water:** As far as the sale of water is concerned, it is evident from the records of the case as well as the submissions of the Ld. Counsel for the appellant that they had purchased water and sold it to ships at a higher price. Thus, this is in our considered view, a case of purchase and sale of goods. Sale of goods is a taxable event for Sales Tax or VAT levied by the State Government. It appears from the records, that the appellant had reported the sales in their VAT returns to the State Government claiming an exemption from VAT available on sale of water. The availability of the exemption for sale of water is in dispute with the VAT department. There is no dispute with the State Government that the transaction is one of sale of water. Sale is not a taxable event to levy service tax.

25. It would have been a different case if they had not bought or sold water but had only rendered some service in connection with the supply of water. For instance, if the users had purchased the water from someone else and if the appellant had only pumped or transported the water, etc., it would have definitely qualified as a service and if the service is rendered within the port, it would be exigible to Service Tax as Port Service. Selling goods on their own account to customers does not qualify as a service or else, every merchant in the country should be held to be rendering a service. **Thus, in our considered view, sale of water is not exigible to Service Tax.**

26. It has been argued by the Learned Departmental Representative that in the case of Jaisu Dredging & Shipping Vs Commissioner of Central Excise, Rajkot [2013 (32) STR 107 (Tri-Ahmd.)], it has been held that supply of water and bunker to vessels is part of port services and is chargeable to service tax under this head and this is a binding ratio upon this Bench. We have gone through this judgment and find in that case, the Tribunal, Ahmedabad has observed from the invoices, "it is quite clear that it is not the cost of water alone that is charged but it includes cost of several other elements". Prima facie, they found that the supply of water and bunker to vessels is part of port services. In the present case, our findings based on the arguments and documents presented before us including the VAT returns show that it was a case of sale of water by the appellant after purchasing local sources. Permission was granted to the appellant by the port to buy and sell water. Therefore, it is a case of sale and purchase and is squarely covered by the definition of purchase and sale of goods under clause 29(A) of Article 336 of the Constitution and therefore falls squarely within the legislative competence of the state to levy VAT. Therefore, it can no longer

fall under the residuary category of Entry 97 of list I of the Seventh schedule of the constitution or the service tax levied under it. A plain reading of the definition of port service also shows, it is a service rendered within a port or other port, in any manner. It is not sale of goods (including water) within the port. Many goods may be sold or bought within the port but all these do not become services merely because the venue of the sales happens to be the port area. Learned DR also relied upon the judgment of the Hon'ble High Court of Gujarat in the case of Total Marine (India) Pvt Ltd., Vs M V Rao, Trader Admiralty Suit No. 16/2015 and the judgment of the Hon'ble High Court of Madras in the case of M V Anushree Fame Vs M/s Synergy Shipping Pvt Ltd., [A.No. 7370 and 7371 of 2010]. We have gone through these judgments of the Hon'ble High Courts of Gujarat and Madras and neither of which is on the question of whether sale of goods within the port area is exigible to service tax under the head of port services. We therefore find that the present facts are distinguishable and the case laws relied upon by the DR does not apply to these appeals.

27. **Renting of immovable property:** A plain reading of the show cause notice in this case itself shows that the appellant have received amounts as advances for construction of a terminal for bunkering. There is no evidence that they have collected any rent towards bunkers or any other immovable property. If indeed, they have received any amounts for renting immovable property, it is not reflected in the show cause notice. Merely because the appellant has received some amounts from their customers they do not have to automatically pay service tax unless such amounts are relatable to rendition of a taxable service.

28. **GTA services:** Learned Counsel concedes the demands GTA services and confirms that the tax has already been paid along with interest.

29. **Alleged excess adjustment of service tax:** As far as this issue is concerned, Learned Counsel would argue that all the documents presented by them have not been considered by the Learned Commissioner in deciding this matter and we are of the opinion that the Commissioner should be given an opportunity to examine them and pass the reasoned order after following principles of natural justice as far as this demand is concerned.

30. **Interest:** As we have set aside, the demands except on the GTA services on which the interest has already been paid along with the demand no further amounts need to be paid by way of interest.

31. **Penalties:** As majority of the demands have already been set aside by us, we find it is a fit case to invoke Section 80 and set aside all the penalties imposed upon the appellant.

32. In view of the above;

i) Appeal No. ST/2820/2012 is partly allowed by setting aside the demand on sale of water and renting of immovable property and upholding the demand of service tax on GTA services with interest. All penalties are set aside invoking Section 80 of Finance Act, 1994.

ii) Appeal No. ST/22246/2012 is partly allowed and partly remanded. The demand on sale of water is set aside and the matter is remanded to the original authority for the purpose of verification with respect to the alleged excessive adjustment of service tax after giving the appellant a reasonable opportunity of being heard and presenting their documents. All penalties are set aside invoking Section 80 of the Finance Act, 1994.

iii) Appeal No. ST/31287/2017 is allowed and the impugned order is set aside with consequential reliefs.

33. The appeals are disposed as herein above.

(Operative part of this order was pronounced in court  
on conclusion of the hearing)

**(S.K. MOHANTY)**  
**MEMBER (JUDICIAL)**

**(P. VENKATA SUBBA RAO)**  
**MEMBER (TECHNICAL)**