

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 116 of 2012

(Arising out of OIA-224-225/2011/COMMR-A-/RBT/RAJ Dated- 02/12/2011 passed by
Commissioner (Appeals) Commissioner of Central Excise-RAJKOT)

RAMA CYLINDERS PVT. LTD.

SURVEY NO. 334 & 335,
VILLAGE: BHIMASAR, TALUKA: ANJAR,
KUTCH-GUJARAT

.....Appellant

VERSUS

C.C.E. & S.T. RAJKOT

CENTRAL EXCISE BHAVAN,
RACE COURSE RING ROAD...INCOME TAX OFFICE,
RAJKOT, GUJARAT-360001

.....Respondent

APPEARANCE:

Shri R. Subramanya (Advocate) for the Appellant
Shri Tara Prakash, (Assistant Commissioner) Authorised Representative for the
Respondent

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)**

Final Order No. A/ 11163 /2022

DATE OF HEARING:16.09.2022

DATE OF DECISION:26.09.2022

RAMESH NAIR

The issue involved in the present case is that whether the appellant is liable to pay service tax in respect of exhibition service provided by foreign service provider in respect of exhibition in abroad on behalf of the appellant for the period 2006-07, 2007-08 and 2009-10.

2. Shri R. Subramanya, learned counsel appearing on behalf of the appellant submits that the service was provided in countries like Pakistan, Egypt, Bangkok and Ukraine by the service provider of the said respective countries. He submits that the service provider had provided the said service namely, Business Exhibition Service outside India only and the appellant had received the said service then and there only i.e. outside India. Even the service was not provided partly in India, therefore, the service is not liable to tax in the hands of the appellant. He submits that even the service is not covered as import of service in terms of Taxation of Service (Provided from outside India and received in India) Rules, 2006.

He placed reliance on the decision of this Tribunal in the case of **CCE & ST (LTU) Bangalore vs TKAP Pvt. Ltd. STO 2011 CESTAT 331.**

3. Shri Tara Prakash, Learned Assistant Commissioner (Authorized Representative) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. We have carefully considered the submissions made by both the sides and perused the records.

5. We find that in the present case the service provided by the overseas service provider is Business Exhibition Service. The service provider i.e. organiser of exhibitions are located in the countries such as Pakistan, Egypt, Bangkok and Ukraine and no any part of the service was provided in India. Entire service was provided outside India only, therefore, the locations of service is outside India. In such case, service tax cannot be levied in India. Even as per Rule 3 of Sub Rule (II) of Taxation of Service (Provided from Outside India and Received in India) Rules 2006, a service can be taxable in the hand of the recipient of the service in India only when the part of the service is performed in India. In the present case, admittedly the whole of the service was provided outside India and received outside India, therefore, even in terms of the said rule, the service tax is not leviable on the Business Exhibition Service received by the appellant which was performed outside India hence not taxable in the hands of the appellant. Accordingly, the impugned order is set aside and appeal is allowed.

(Pronounced in the open court on 26.09.2022)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)