

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

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 85423 of 2017**

(Arising out of Order-in-Original No. 55/STC-I/SM/16-17 dated 31.11.2016 passed by the Commissioner of Service Tax-I, Mumbai).

**ICICI Bank Limited**

ICICI Bank Tower,  
Bandra Kurla Complex (BKC)  
Bandra (East), Mumbai – 400 051.

**.... Appellants**

Versus

**Commissioner of Service Tax - I**

14th Floor, Air India Building  
Marine Drive, Nariman Point  
Mumbai – 400 021.

**....Respondent**

**WITH**

**Service Tax Appeal No. 86862 of 2017**

(Arising out of Order-in-Original No. 84/STC-IV/SM/16-17 dated 31.03.2017 passed by the Commissioner of Service Tax-I, Mumbai).

**ICICI Bank Limited**

ICICI Bank Tower,  
Bandra Kurla Complex (BKC)  
Bandra (East), Mumbai – 400 051.

**.... Appellants**

Versus

**Commissioner of Service Tax - IV**

14th Floor, Air India Building  
Marine Drive, Nariman Point  
Mumbai – 400 021.

**....Respondent**

**AND**

**Service Tax Appeal No. 86244 of 2019**

(Arising out of Order-in-Original No. 200/VR/COMMR/ME/2018-19 dated 06.02.2019 passed by the Commissioner of Service Tax-IV, Mumbai).

**ICICI Bank Limited**

ICICI Bank Tower,  
Bandra Kurla Complex (BKC)  
Bandra (East), Mumbai – 400 051.

**.... Appellants**

Versus

**Commissioner of Service Tax - IV**

12th Floor, Lotus Info Centre  
Station Road, Parel (East)  
Mumbai – 400 012.

**....Respondent**

**APPEARANCE:**

Shri V. Sridharan, Sr. Advocate a/w Shri Jay Chheda & Shri Aniket Barve,  
Advocates for the Appellants

Shri Manish Mohan, Commissioner, Authorized Representative for the Respondent

**CORAM:****HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**  
**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)****FINAL ORDER NO. A/86703-86705/2025**

Date of Hearing: 11.06.2025

Date of Decision: 23.10.2025

**Per: M.M. PARTHIBAN**

These appeals have been filed by M/s ICICI Bank Limited, Mumbai (herein after, referred to as "the appellants", for short) assailing the three Orders-in-Original No. 55/STC-I/SM/16-17 dated 31.11.2016, No. 84/STC-IV/SM/16-17 dated 31.03.2017 and No. 200/VR/COMMR/ME/2018-19 dated 06.02.2019 (herein after, referred together as "the impugned orders") passed by the Commissioner of Service Tax-I/IV, Mumbai.

2. In all the orders-in-original / impugned orders the dispute involved is arising from common issues but covering different periods involving demand of service tax, interest and penalty thereon such as Show Cause Notice (SCN) No. 1461/Commr./2014-15 dated 13.10.2014 adjudicated vide the impugned order dated 30.11.2016 covering adjudged demands for the period 01.07.2012 to 31.03.2014; SCN No. 74/Commr./ST-4/Dn-I/2015 dated 04.01.2016 adjudicated by impugned order dated 31.03.2017 covering adjudged demands for the period 01.04.2014 to 31.03.2015; and SCN No. ME/COMMR./ICICI/18/2017-18 dated 30.01.2018 adjudicated by the impugned order dated 06.02.2019 covering adjudged demands for the period 01.04.2015 to 30.06.2017. Thus, we are of the view that these appeals can be considered together for hearing in the interest of justice. Therefore, with the consent of both the parties, all the three appeals are being taken up for consideration and for final disposal herein.

3.1 The brief facts of the case are that the appellants herein is *inter alia*, engaged in providing amongst various services, 'Banking and Other Financial Services' which are taxable services under Chapter V of the Finance Act, 1994. For the purpose of payment of Service Tax and for compliance with service tax statute, they are registered with the jurisdictional Commissionerate under service tax centralized registration No.AAACI1195HST001.

3.2 In case of export, the appellants provide services to the exporters for collection of the remittances made by the overseas buyers towards the proceeds of exports. In a cross-border transaction, this would typically involve issue of documentary credit by opening a 'Letter of Credit (LC)' from the buyer/importer abroad through their bank i.e., 'issuing bank' in the importing country, through the exporter's bank in the country of export i.e., 'advising bank'. The exporter's bank in turn advises and informs the terms of LC issued in favour of the exporter, who is the actual beneficiary arising out of the export transaction. This mechanism of issuance of LC by banks provide assurance to the exporter avoiding any uncertainty of payment. Similarly the importer is being protected against the risk of default by the exporter, since valid documents like export invoice, shipping bill, bill of lading etc. are presented by the exporter to their bank for effectively transferring the title of the export goods to the buyer abroad. There could also be correspondent banks/intermediary banks in such transactions involving issuing bank and beneficiary bank.

3.3 In the present case, the appellants had acted as advising bank to the Indian exporter qua LC. In an illustrative case of export involving an export price of US\$ 1000 and the charges of the foreign bank of US\$ 20, the Indian exporter would raise the invoice for US\$ 1000, the foreign bank would deduct its charges of US\$ 20 and remit the balance US\$ 980 to the appellants bank in India. The appellants bank would convert proceeds of export received at US\$ 980 at the prevailing applicable exchange rate and credit the money to the Indian exporters bank account in Indian rupees. Thus it is clear that during the course of collection of foreign remittances, the foreign banks deduct charges and remit the net amount to the bank situated in India. The appellants bank having provided certain financial services to the exporter in India in respect of conversion of foreign exchange, services towards advising bank in connection with LC have charged separately on the exporter, and the service tax at the applicable rate has been paid, which is not in dispute. Similarly in respect of imports, the appellants bank provide services for Indian importers in issuing, amending LCs for imports, making payment in foreign currency to the supplier abroad on receipt of documents covering the imports. During verification of records, the Department had noted that where the foreign banks are recovering certain charges for processing import/export documents regarding remittances of foreign currency i.e., US\$ 20 in the

illustrative case above, the banks in India, such as the appellants, are the recipient of service and therefore they are required to pay service tax.

3.4 In this regard, the Department had called for various details/documents for the purpose of ascertaining the taxability of the above transaction. On the basis of the verification, the Department had interpreted that in cases where the foreign banks are recovering certain charges for processing of import/export documents regarding remittances of foreign currency, the banks in India or the recipient of service. Therefore, the Department had proceeded against the banks in India, being a recipient of service, for demand of service tax under the provisions of Notification No. 30/2012-Service Tax dated 20.06.2012. Accordingly the Department had issued three SCNs dated 13.10.2014, 04.01.2016 and 30.01.2018 by treating the appellants as recipient of service provided by foreign banks and proposing for demand of service tax for the period July, 2012 to June, 2017 vide Section 73(1) read with Section 68 of the Finance Act, 1994 along with interest and for imposition of penalty on the appellants under Section 76 & 77 *ibid*. The afore said three SCNs were adjudicated by the learned Commissioner of Service Tax-I/IV, Mumbai by confirming all the proposals made in the SCNs vide Orders-in-Original dated 30.11.2016, 31.03.2017 and 06.02.2019. Feeling aggrieved with the impugned orders, the appellants have filed these appeals before the Tribunal.

4.1 Learned Advocate submitted that the issue under dispute has been decided in favour of the appellants in a number of cases by various Benches of the Tribunal and relied upon such decisions. These are the cases of *State Bank of Bikaner & Jaipur Vs. Commissioner of Central Excise & Service Tax, Alwar* vide Order dated 05.08.2020 in Appeal No. ST/51138 of 2017 reported in 2021 (45) G.S.T.L. 293 (Tri. Del.); *HDFC Bank Ltd. Vs. Commissioner of Service Tax-V, Mumbai* - (2024) 15 Centax 281 (Tri.-Bom); *Bank of Baroda Vs. Commissioner of Service Tax-I, Mumbai* vide Final Order No. A/86227/2025 dated 08.08.2025; *Commissioner of CGST, Central Excise and Customs, Bhopal Vs. Central Bank of India* - 2025 (1) TMI 538 - CESTAT New Delhi.

4.2 He further submitted that during the course of collection of foreign remittances for the exporters in India, the foreign banks deduct charges from the remittance amount of the exporter and remit the net amount to the banks in India, as the appellants Indian banks act as an agent of the

their customer-exporter. Therefore, the appellants bank is not the service recipient; and no services have been received by them. Further, in the case of import of goods, the importer alone makes payment of the price of the goods and the Appellants bank issuing LC do not involve in such payment. There is a clear distinction in law between 'payment' and 'commitment to pay'. The foreign bank charges are paid by the Indian importer alone and also borne by him separately and payment for these charges are not being made by the appellants bank. Further, he stated that in terms of Rule 2A and 7 of Point of Taxation Rules, 2011 highlights the importance of date of payment and the date of entry of payment made in the books of account. Thus, he stated that the appellants bank, who neither make the payment of foreign bank charges nor record the same in the books of account, cannot be made as recipient of services of foreign bank in order to demand service tax on such activity.

4.3 Learned Advocate also stated that the demand for the period July, 2012 to September, 2012 is beyond the normal period of limitation of 18 months, as the Department had erroneously made an assumption that the exact date of filing of the return is not available on record. He further stated that the 'Uniform Customs and Practice for Documentary Credits' UCP-600 and 'Uniform Rules for Collection of Commercial Paper, International Chamber of Commerce Brochure No.522' establishes a framework for interaction between banks and it does not anywhere designated the appellants as recipient of services from the foreign banks. Further, the importers in India for acquiring requisite amount of foreign-exchange is required to file an application in Form A-1 with the authorised dealer for making payments in terms of RBI Master CircularNo.7/2011-12 dated 01.07.2011. Thus, the transactions are in compliance with the legal requirement. Therefore, there is no ground for imposition of penalty on the appellants. In view of the above, he submitted that their appeals may be allowed in favour of the appellants.

5. On the other hand, the learned AR appearing for the Revenue reiterated the findings recorded in the impugned order.

6. Heard both sides and carefully examined the case records. We have also perused the additional written submissions presented in the form of paper book for this case.

7. The issues for determination in the present appeals before the Tribunal in this case are:-

(i) whether the appellants banks in India are the recipient of service, in export/import transaction involving transfer/ exchange of documents and transfer of money on behalf of their client exporters/importers or otherwise;

(ii) whether the appellants banks in India are liable to pay service tax on 'bank charges' deducted/charged by foreign banks or foreign banks through correspondent/intermediary banks, under Reverse Charge Mechanism?

8.1 We find that on the aforesaid issue of liability to pay service tax on 'foreign bank charges', both during pre-negative list period and post 0.07.2012 have been examined in detail by the Co-ordinate Bench of this Tribunal in the case of *State Bank of Bikaner & Jaipur* (supra), wherein it was held that the banks in India are not the recipient of any service rendered by foreign banks in the export/import transaction for settling the foreign remittances, and there is no liability of payment of service tax thereon on Reverse Charge Mechanism (RCM) basis. The relevant paragraphs of the said Order of Tribunal dated 05.08.2020 is extracted and given below:

**2.** *The Appellant Bank has been providing various financial services in India under the category of "banking & other financial services" as defined under Section 62(12) of the Finance Act. Amongst the various services it provides, the Appellant Bank also provides banking services to the importers/exporters by facilitating the settlement of payment between them in connection with the import and export of goods/services. The Foreign Exchange Management Regulations require all foreign trade transactions to be necessarily routed through normal banking channels. For settlement of payment between the importer and exporter, banks of importer and exporter have to play their role in making and collecting the payments. If the banks of the importer and exporter are different, then the settlement transactions are governed by the URC 522 and UCP 600 protocols issued by International Chamber of Commerce. The protocols define the obligations of each party (i.e. exporter, importer and their respective banks) to International trade. In the absence of any specific agreement to the contrary, all contracts are governed by these protocols.*

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**19.** *As noticed above, the issue that needs to be decided is whether the Foreign Banks have provided any service of transfer/exchange of documents and transfer of money relating to exports made by the exporters in India, who receive money through the Appellant Bank against the said exports. According to the Department, the Foreign Bank provides "banking and other financial services", as defined under Section 65(12) of the Finance Act, which is taxable under Section 65(105)(zm) of the Finance Act at the hands of the Appellants under a reverse charge*

*mechanism. The contention of the Appellant Bank is that no service has been provided by the Foreign Bank or the Foreign Intermediary Bank to the Appellant Bank and, therefore, the Appellant Bank cannot be asked to pay service tax on reverse charge mechanism and in any case there is no flow of consideration from the Appellant Bank to the Foreign Bank or the Foreign Intermediary Bank so as to make the alleged service to the Appellant Bank taxable.*

**20.** *To appreciate the aforesaid issue, it will be necessary to understand the nature of the transaction that takes place. The Appellant Bank has been providing banking services to the exporters by facilitating the settlement of payments relating to the export of goods. All such foreign trade transactions have necessarily to be routed through normal banking channels as is provided for in the Foreign Exchange Management Regulations. The banks of the exporter and the banks of the importer, therefore, have an important role to play. There may be a situation where the banks of the exporter and the banks of the importer are different. In such a situation, the settlement of transaction is governed by the URC 522 and UCP 600 protocols issued by the International Chambers of Commerce. As per the specific instructions of the Indian exporters, the Appellant Bank provides services like sending of export documents to the banks of the exporter's buyers, for which the Appellant Bank charges commission/fees and pays service tax on such services provided to the exporter. There is no dispute on this issue. The dispute is with regard to the charges collected by the Foreign Bank or the Foreign Intermediary Bank.*

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**34.** *The issue that needs to be decided is whether the Appellant Bank is the recipient of the service said to have been provided by the Foreign Bank. The nature of the transactions that take place when an exporter in India exports goods to an importer outside India has been described in the preceding paragraphs. The Appellant Bank provides service to the exporters by sending the export documents to the bank of the importer abroad and collects payment. Thus, the role of the Appellant Bank is to settle the payment relating to export/import of trade. For performance of such activity, the Appellant Bank charges service tax to the exporters and there is no dispute about the said charges in this Appeal. The Appellant Bank cannot be said to be the recipient of service for the activities undertaken by the Foreign Banks situated outside India, the charges for which are deducted at source on the export bill. The Appellant Bank merely acts on behalf of the Indian exporter and facilitates the service. The Appellant Bank, therefore, would not be liable to pay service tax under the reverse charge mechanism.*

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**36.** *It is, thus, clear that where service tax is chargeable on any taxable service with reference to its value, then such value shall be determined in the manner provided for in (i), (ii) or (iii) of sub-section (1) of Section 67. What needs to be noted is that each of these refer to "where the provision of service is for a consideration", whether it be in the form of money, or not wholly or partly consisting of money, or where it is not ascertainable. In either of the cases, there has to be a "consideration" for the provision of such service. Explanation to sub-section (1) of Section 67 defines "consideration" to include any amount that is payable*

for the taxable services provided or to be provided, or any reimbursable expenditure, or any amount retained by the lottery distributor or selling agent. It is clear from the aforesaid definition of "consideration" that only an amount that is payable for the taxable service will be considered as "consideration".

**37.** A Larger Bench of the Tribunal in *Bhayana Builders (P) Ltd. v. Commissioner of Service Tax* [[2013 \(32\) S.T.R. 49](#) (Tri. - LB)] observed that "implicit in the legal architecture is the concept that any consideration whether monetary or otherwise, should have flown or should flow from the service recipient to the service provider and should accrue to the benefit of the latter." In the said decision, the Larger Bench made reference to the concept of "consideration", as was expounded in the decision pertaining to Australian GST Rules, wherein a categorical distinction was made between "conditions" to a contract and "consideration". It has been prescribed under the said GST Rules that certain "conditions" contained in the contract cannot be seen in the light of "consideration" for the contract and merely because the service recipient has to fulfil such conditions would not mean that this value would form part of the value of the taxable services that are provided.

**38.** The Supreme Court in *Commissioner of Service Tax v. M/s. Bhayana Builders* [2018 (2) TMI 1325 = [2018 \(10\) G.S.T.L. 118](#) (S.C.)], while deciding the appeal filed by the Department against the aforesaid decision of the Tribunal, also explained the scope of Section 67 of the Act, both before and after the amendment, in the following words :

"The amount charged should be for "for such service provided": Section 67 clearly indicates that the gross amount charged by the service provider has to be for the service provided. Therefore, it is not any amount charged which can become the basis of value on which service tax becomes payable but the amount charged has to be necessarily a consideration for the service provided which is taxable under the Act. By using the words "for such service provided" the Act has provided for a nexus between the amount charged and the service provided. Therefore, any amount charged which has no nexus with the taxable service and is not a consideration for the service provided does not become part of the value which is taxable under Section 67. The cost of free supply goods provided by the service recipient to the service provider is neither an amount "charged" by the service provider nor can it be regarded as a consideration for the service provided by the service provider. In fact, it has no nexus whatsoever with the taxable services for which value is sought to be determined."

(emphasis supplied)

**39.** The aforesaid view was reiterated by the Supreme Court in *Union of India v. Intercontinental Consultants and Technocrats* [[2018 \(10\) G.S.T.L. 401](#) (S.C.)] and it was observed :

"23. Obviously, this Section refers to service tax, i.e., in respect of those services which are taxable and specifically referred to in various sub-clauses of Section 65. Further, it also specifically mentions that the service tax will be @ 12% of the "value of taxable services". Thus, service tax is reference to the value of service. As a necessary corollary, it is the value of the services which are actually rendered, the value whereof is to be ascertained for the purpose of calculating the service tax payable thereupon.

24. In this hue, the expression "such" occurring in Section 67 of the Act assumes importance. In other words, valuation of taxable services for charging service tax, the authorities are to find what is the gross amount charged for providing "such" taxable services. As a fortiori, any other amount which is calculated not for providing such taxable service cannot a part of that valuation as that amount is not calculated for providing such "taxable service". That according to us is the plain meaning which is to be attached to Section 67 (unamended, i.e., prior to May 1, 2006) or after its amendment, with effect from, May 1, 2006. Once this interpretation is to be given to Section 67, it hardly needs to be emphasised that Rule 5 of the Rules went much beyond the mandate of Section 67. We, therefore, find that High Court was right in interpreting Sections 66 and 67 to say that in the valuation of taxable service, the value of taxable service shall be the gross amount charged by the service provider "for such service" and the valuation of tax service cannot be anything more or less than the consideration paid as *quid pro qua* for rendering such a service.

25. This position did not change even in the amended Section 67 which was inserted on May 1, 2006. Sub-section (4) of Section 67 empowers the rule making authority to lay down the manner in which value of taxable service is to be determined. However, Section 67(4) is expressly made subject to the provisions of sub-section (1). Mandate of sub-section (1) of Section 67 is manifest, as noted above, viz., the service tax is to be paid only on the services actually provided by the service provider."

**40.** What follows from the aforesaid decisions is that "consideration" must flow from the service recipient to the service provider and should accrue to the benefit of the service provider and that the amount charged has necessarily to be a consideration for the taxable service provided under the Act. It should also be remembered that there is marked distinction between "conditions to a contract" and "considerations for the contract". A service recipient may be required to fulfil certain conditions contained in the contract but that would not necessarily mean that this value would form part of the value of taxable services that are provided.

**41.** The Appellant Bank has not paid any consideration to the Foreign Bank as is clear from the factual position emerging out of the export trade and, therefore, also the Appellant Bank cannot be said to be the recipient of any service by the Foreign Bank.

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**43.** At this stage, it will be useful to reproduce the relevant portion of the Trade Notice dated February 10, 2014 issued by the Chief Commissioner, Central Excise, Mumbai Zone-I, as it is this Trade Notice that has been relied upon in the decisions referred to by the Learned Authorized Representatives. The relevant portion of the Trade Notice is reproduced below :

"5. The views of the banks that services provided by the foreign bank are received by the importer or exporter in India is not factually and legally correct because, for a person to be treated as recipient of service, it is necessary that he should know who the service provider is and there should be an agreement to provide service, which may be oral or written. In the present case, the importer and exporter does not even know who the service provider is, as they are not aware of the identity of the foreign banks which would be providing services. Exporter or importer in India does not have any formal or informal

agreement with the foreign bank. Importer or exporter in India does not even know the quantum of charges which the foreign bank would be recovering. Therefore, in view of the above mentioned factual position and also in view of the various articles of URC 522/UCP 600, it is clear that services are provided by the foreign bank to the bank in India. Further, Tribunals have also prima facie held that in such cases, services are provided by the foreign bank to the Indian bank and not to the Indian Exporter. [M/s. Gracure Pharmaceuticals Ltd. v. Commissioner of Central Excise, Jaipur-I - [2013 \(32\) S.T.R. 249](#) (Tri. - Del.), M/s. Gujarat Ambuja Exports Ltd. v. Commissioner of Service Tax, Ahmedabad - [2013 \(30\) S.T.R. 667](#) (Tri. - Ahmd.)].

6. It is therefore clarified that, in cases where the foreign banks are recovering certain charges for processing of import/export documents regarding remittance of foreign currency, the banks in India would be treated as recipient of service and therefore required to pay Service Tax.

7. All the banks are requested to follow the abovementioned clarifications and to also pay tax for the past period.

8. This Trade Notice is issued with the approval of Chief Commissioner, Central Excise, Mumbai-Zone-I."

[emphasis supplied]

**44.** The aforesaid Trade Notice dated February 10, 2014 places reliance upon two interim orders passed by the Principal Bench at Delhi in *Gracure Pharmaceuticals Ltd. v. Commissioner of Central Excise, Jaipur-I* [[2013 \(32\) S.T.R. 249](#) (Tri. - Del.)] and by the Ahmedabad Bench of the Tribunal in *Gujarat Ambuja Exports Ltd. v. Commissioner of Central Excise, Ahmedabad* [[2013 \(30\) S.T.R. 667](#) (Tri. - Ahmd.)]. Thus, it is based on prima facie views expressed by the Benches in the interim orders. It is also not clear whether the Appeals have been decided or not.

**45.** The aforesaid Trade Notice dated February 10, 2014 was examined by the Madras High Court in *BGR Energy Systems Limited* [[2020 \(32\) G.S.T.L. 186](#) (Mad.)] wherein the Writ Petitioner was an exporter who had entered into an agreement to export certain goods to an oil company situated in Iraq. For due performance of the contract, the Indian exporter was required to issue Advance Bank Guarantee as well as Performance Bank Guarantee. Both these guarantees had to be issued by a Bank in Iraq in favour of overseas customer of the Indian exporter. It was sought to be contended by the Writ Petitioner that in view of the Trade Notice dated February 10, 2014, only the Indian Bank was liable to pay service tax and not the exporter. On the other hand, it was sought to be contended by the Respondent that the Trade Notice relied upon by the Writ Petitioner was issued by the Mumbai Commissionerate in view of a stay order passed by the Tribunal and the Appeal was still pending before the Tribunal. The Madras High Court referred to the decision of the Supreme Court in *Commissioner of Central Excise, Bhopal v Minwool Rock Fibres Ltd.* [[2012 \(278\) E.L.T. 581](#) (S.C.)] and held that Departmental Circulars were not binding on the assessee or quasi judicial authority or courts. The High Court then examined whether the exporter or its Indian banker was liable to pay service tax for the service rendered by the Foreign Bank or the Foreign Intermediary Bank and in this connection observed that though the Indian exporter had not made any remittance to the Foreign Intermediary banks directly, but there could be no dispute that the expenses met out for rendering of such service to the Indian Bank were borne by the Indian exporter. Thus, it cannot be

said that the bank of the exporter in India was the recipient of service provided by the Intermediary Bank or the Foreign Bank situated in Iraq. In fact, the Indian Bank of the exporter had only facilitated the service to be rendered by the Foreign Bank for the purpose of providing Bank Guarantee on behalf of the exporter. Thus, the Indian exporter could not shirk from its liability of paying service tax relatable to the bank guarantee, commission and realization charges involved in the case. The relevant portion of the judgment of the Madras High Court is reproduced below :

"18. In this case, there is no dispute to the fact that the petitioner's bank in this country namely Indian Bank, Adyar has not furnished the bank guarantee to the foreign supplier of the petitioner. On the other hand, the Indian Bank approached the intermediary banks which are admittedly located outside this country, which in turn approached the bank situated in Iraq only for the purpose of furnishing bank guarantee on behalf of the petitioner to its foreign supplier at Iraq. Therefore, there is no doubt that though the event of furnishing the bank guarantee had taken place in three parts, the chain of events connecting those three parts will undoubtedly lead to an irrebuttable conclusion that all those three events were aimed only to provide the service to the petitioner, namely furnishing of bank guarantee to its foreign supplier. As rightly pointed out by the authorities who passed the impugned order, the petitioner had incurred expenditure in foreign currency towards bank guarantee commission and export proceeds realisation charges paid to the intermediary banks situated outside India. Certainly, a taxable service has been provided to the petitioner namely, banking or other financial services. It is the categorical finding of the authorities who passed the impugned orders that taxable service by way of issuing bank guarantee to the petitioner's customer at Iraq and by way of remitting the exports proceeds to the petitioner, had been performed by the intermediary banks for the petitioner. Therefore, the petitioner cannot claim that they are not the recipient of the service. Though the petitioner had not made any remittance to the foreign intermediary banks directly, there cannot be any dispute that the expenses met out towards rendering of such service by the Indian Bank were borne by the petitioner. In other words, at no stretch of imagination, it can be said that the petitioner's Bank at Chennai, namely, Indian Bank, Adyar, is recipient of the service provided by the intermediary bank or the foreign bank situated in Iraq. Needless to say that the Indian Bank, Adyar, namely, the banker of the petitioner has facilitated the service to be rendered by the intermediary banks and the foreign bank in Iraq only for the purpose of providing bank guarantee on behalf of the petitioner. Therefore, the petitioner is not justified in shirking its liability to pay Service Tax relatable to the bank guarantee commission and realisation charges involved in this case.

19. Further, as rightly pointed out by the Appellate Authority in his order made in Appeal Nos. 489-492/2018, dated 17-9-2018, the recipient of service involved in this case namely, furnishing of bank guarantee, is only the petitioner and not the banker. Since the service receiver is the petitioner and the place of provision of such service is also the location of the petitioner, which is within India, the Service Tax liability is rightly fastened on the petitioner, with which, I find no reason to interfere. Since the only point raised in this writ petition is based on the trade circular issued by the Mumbai Commissionerate and that the said issue is answered against the petitioner as discussed supra, I find that both the writ petitions are devoid of any merit. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed"

[emphasis supplied]

**46.** Thus also, neither the aforesaid Trade Notice dated February 10, 2014 nor the decisions relied upon by the Learned Authorized Representatives based on the said Trade Notice can come to the aid of the Department.

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**50.** The inevitable conclusion that follows from the above discussion is that the Indian Bank is not the recipient of any service rendered by the Foreign Bank and, therefore, there is no liability to pay service tax on a reverse charge mechanism."

8.2 We also find that Co-ordinate Bench of the Tribunal in the case of *Central Bank of India* (supra) in Final Order No. 59933/2024 dated 10.12.2024 in dismissing the appeal filed by the department against the relief given in favour of the appellants have relied upon the case of State Bank of Bikaner & Jaipur and held that banks in India are not liable to pay service tax under RCM basis in respect of export/import transactions conducted on behalf of their client exporters.

9.1 The facts of the present case and various documents placed on record indicate that it involves contract of purchase of crude oil between M/s Reliance Industries Ltd. and Egyptian Gen Petroleum Corporation of providing for establishing a is an irrevocable letter of credit for every shipment covering its value. Such contracts specifically provide for all banking charges and commissions are for the account of the Indian importer/buyer. In such transactions, the buyer M/s Reliance Industries Ltd. had requested the appellants bank for issue of letter of credit in favour of the exporter, and the foreign beneficiary bank had communicated to the issuing bank in India about the value of the shipment and the foreign bank charges separately to be paid by the importer. Such trail of documentation also clearly show that payment in respect of foreign bank charges are paid directly by the importer, substantiating that the appellants bank do not have any role in such payment, thereby indicating that there is no element of service in such transaction.

9.2 We find that in the case of *BGR Energy Systems Limited Vs. Addl. Commissioner of GST & Central Excise, Chennai* reported in 2020 (32) G.S.T.L. 186 (Mad.) involving a dispute where the issue of payment of service tax, whether to be paid by the exporter or the exporter's bank in India was decided by the Hon'ble High Court of Madras in holding that the exporter alone is liable to pay the service tax and there is no involvement of service and consequential payment of service tax by the exporter's bank.

The relevant paragraphs of the said judgement dated 22.11.2019 is extracted and given below:

"2..... The petitioner is registered with the Service Tax Department as service provider and service recipient under various categories. The petitioner has entered into certain contracts with Overseas Customers for supply of goods. One such case is where the petitioner has entered into an Agreement to supply/export certain goods to Oil Company situated in Iraq. For the due contract performance, the petitioner has to issue Advance Bank Guarantee as well as Performance Bank Guarantee. Both the guarantees are to be issued from an Iraqi Bank in favour of the customer. The petitioner's banker, namely Indian Bank, Adyar, Chennai, does not have any direct relationship with any of the Iraqi Banks to issue the guarantee and therefore, there was no possibility for the customer in Iraq accepting the bank guarantee issued by Indian Bank, Adyar. Therefore, the Indian Bank would have to necessarily identify the intermediary foreign Bank, who should have relationship either with the customer or with any of the Iraqi banks to have the bank guarantees issued. Accordingly, Indian Bank, Adyar Branch, engaged the services of two foreign banks, namely JP Morgan Bank, Singapore and Credit Agricole Bank, Paris, to issue the bank guarantees in this transaction.

**17.** With this background, let me consider as to whether the petitioner or their banker namely Indian Bank, Adyar, is liable to pay the same in respect of the service rendered by intermediary Bank as well as the banker at Iraq which furnished the bank guarantee to the supplier of the petitioner.

**18.** In this case, there is no dispute to the fact that the petitioner's bank in this country namely Indian Bank, Adyar has not furnished the bank guarantee to the foreign supplier of the petitioner. On the other hand, the Indian Bank approached the intermediary banks which are admittedly located outside this country, which in turn approached the bank situated in Iraq only for the purpose of furnishing bank guarantee on behalf of the petitioner to its foreign supplier at Iraq. Therefore, there is no doubt that though the event of furnishing the bank guarantee had taken place in three parts, the chain of events connecting those three parts will undoubtedly lead to an irrebuttable conclusion that all those three events were aimed only to provide the service to the petitioner, namely furnishing of bank guarantee to its foreign supplier. As rightly pointed out by the authorities who passed the impugned order, the petitioner had incurred expenditure in foreign currency towards bank guarantee commission and export proceeds realisation charges paid to the intermediary banks situated outside India. Certainly, a taxable service has been provided to the petitioner namely, banking or other financial services. It is the categorical finding of the authorities who passed the impugned orders that taxable service by way of issuing bank guarantee to the petitioner's customer at Iraq and by way of remitting the exports proceeds to the petitioner, had been performed by the intermediary banks for the petitioner. Therefore, the petitioner cannot claim that they are not the recipient of the service. Though the petitioner had not made any remittance to the foreign intermediary banks directly, there cannot be any dispute that the expenses met out towards

*rendering of such service by the Indian Bank were borne by the petitioner. In other words, at no stretch of imagination, it can be said that the petitioner's Bank at Chennai, namely, Indian Bank, Adyar, is recipient of the service provided by the intermediary bank or the foreign bank situated in Iraq. Needless to say that the Indian Bank, Adyar, namely, the banker of the petitioner has facilitated the service to be rendered by the intermediary banks and the foreign bank in Iraq only for the purpose of providing bank guarantee on behalf of the petitioner. Therefore, the petitioner is not justified in shirking its liability to pay Service Tax relatable to the bank guarantee commission and realisation charges involved in this case."*

10. In view of the foregoing and on the basis of the order passed by the Co-ordinate Bench of the Tribunal in the case of *State Bank of Bikaner & Jaipur* (supra), and judgement delivered by the Hon'ble High Court of Madras in the case of *BGR Energy Systems Ltd.*, (supra), confirmation of service tax liability on appellants banks in India, in an export/import transaction involving transfer/exchange of documents and transfer of money on behalf of their client exporters/importers, on RCM basis, does not stand the legal scrutiny. Therefore, the adjudged demands along with interest and imposition of penalty on the appellants, in impugned orders dated 30.11.2016, 31.03.2017 and 06.02.2019 are not legally sustainable and thus these are liable to be set aside.

11. In the result, the impugned orders passed by the learned Commissioner of Service Tax-I/IV, Mumbai are set aside and the appeals filed by the appellants are allowed in their favour.

(Order pronounced in open court on 23.10.2025)

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

**(M.M. PARTHIBAN)**  
**MEMBER (TECHNICAL)**