

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 30390 of 2018

(Arising out of **Order-in-Appeal** No.GUN-EXCUS-000-APP-0172-17-18 dated 31.01.2018
passed by Commissioner of Central Tax & Customs (Appeals), Guntur)

Indian Tobacco Traders

Kondepi Road,
Tangutur,
Prakasam District,
Andhra Pradesh – 532 274.

..

APPELLANT

VERSUS

**Commissioner Of Central Tax
Guntur - GST**

C.R. Buildings,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

..

RESPONDENT

WITH

Service Tax Appeal No. 30391 of 2018

(Arising out of **Order-in-Appeal** No.GUN-EXCUS-000-APP-0164-17-18 dated 31.01.2018
passed by Commissioner of Central Tax & Customs (Appeals), Guntur)

Indian Tobacco Traders

Kondepi Road,
Tangutur,
Prakasam District,
Andhra Pradesh – 532 274.

..

APPELLANT

VERSUS

**Commissioner Of Central Tax
Guntur - GST**

C.R. Buildings,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

..

RESPONDENT

AND

Service Tax Appeal No. 30392 of 2018

(Arising out of **Order-in-Appeal** No.GUN-EXCUS-000-APP-0173-17-18 dated 31.01.2018
passed by Commissioner of Central Tax & Customs (Appeals), Guntur)

Indian Tobacco Traders

Kondepi Road,
Tangutur,
Prakasam District,
Andhra Pradesh – 532 274.

..

APPELLANT

VERSUS

**Commissioner Of Central Tax
Guntur - GST**

C.R. Buildings,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

..

RESPONDENT

APPEARANCE:

Shri S. Sankaravadelu, Advocate for the Appellant.

Shri A. Rangadham, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30527-30529/2025

Date of Hearing: 18.11.2025

Date of Decision: 28.11.2025

[ORDER PER: ANGAD PRASAD]

M/s Indian Tobacco Traders (hereinafter referred to as appellant) has filed these three appeals against the Order-in-Appeal Nos. GUN-EXCUS-000-APP-0172-17-18, GUN-EXCUS-000-APP-0164-17-18 & GUN-EXCUS-000-APP-0173-17-18 dated 31.01.2018, passed by Commissioner of Central Tax & Customs (Appeals), Guntur.

2. In these three appeals, the issues is same but related to different periods as tabulated below, so heard simultaneously to decide together.

Sl.No.	Appeal No.	Period	Amount (Rs.)
i.	ST/30391/2018	July 2012 to March 2013	1,75,373.00
ii.	ST/30392/2018	April 2013 to March 2014	10,918.00
iii.	ST/30393/2018	April 2014 to March 2017	2,11,873.00

3. The facts, in brief, M/s Indian Tobacco Traders, Kondepi Road, Tangutur (appellants) are engaged in procurement of Tobacco leaves from auction yards of Tobacco Board process them through M.s Mahi Agro Product Ltd., Gundlapalli. The "Redried and Threshed Lamina / Stem" are marketed either locally or exported. For transportation of tobacco leaves / redried threshed leaves and stem, the appellant directly engage truck owners / operators, who carry the goods and collect their transport charges. The goods are always accompanied by the challans / documents of the appellants, the truck owners / operators do not issue any documents.

4. The Department had issued three Show Cause Notices demanding Service Tax under Goods Transport Agency Service. There were proposals to charge interest and impose penalties.

5. The appellants submitted their replies and stated that they have availed the services of individual truck owners / Goods Transport Operators (GTO). The transporters have not issued any consignment note. The activity is not leviable to Service Tax, the same is excluded under Entry (p) (i) of Section 66D of the Finance Act, 1994 viz., Negative List of services.

6. The Adjudicating Authority has not disputed the facts but inferred that in view of the amendment to the definition of Goods Transport Agency brought on 01.05.2006, by replacing "commercial concern" by "any person", even if the truck operators /owners render service, Service Tax under Goods Transport Agency is payable.

7. The appellant had filed appeals before the Appellate Authority. The Appellate Authority / Commissioner (Appeals) dismissed their appeals, therefore, appellant has filed the appeals before the Tribunal.

8. Learned Counsel for the appellant submits that as per Section 66D of the Finance Act, 1944 services specified under the Negative List are exempted from the levy of Service Tax. According to the Entry (p) (i) of Section 66D of the Finance Act, 1994 related to the Negative List of services, services by way of transportation of goods, except the services of a goods transportation agency, are exempted from the levy of Service Tax. Clause (26) of Section 65B of the Finance Act, 1994 read as:

"goods transport agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called." The words "any person" was substituted for the words "Commercial concern" with effect from 01.05.2006 to overcome the difficulties in defining 'commercial concern'. Thus the Goods Transport

Agency as per above provisions that the 'Goods Transport Agency Service' is service taxable if the same was rendered only by a "goods transport agency", which automatically follows that the truck owners are not agents and the services availers like the appellants from the truck owners are not liable to Service Tax".

9. Learned Counsel for the appellant also submits that the Authority has not justified for not accepting the product as an "agricultural produce" to extend the exemption under Entry 21(a) of the Notification No. 25/2012 – ST.

10. Learned Counsel for the appellant relied on CESTAT, Ahmedabad decision in the case of M/s Chartered Logistics Ltd., Vs Commissioner of Central Excise [2024 16 Centax 473 (Tri-Ahmd)], in which held that even if a person has provided Goods Transport Service, but not issued consignment note / LR, Service Tax from that person under GTA cannot be recovered. This order of the Tribunal was upheld by the Hon'ble Supreme Court. Even CESTAT Hyderabad, in the case of M/s Bothra Shipping Services Vs Commissioner of Central Excise & Service Tax, Visakhapatnam vide Final Order No. A/30362/2025 dated 11.09.2025 held that when there is no issuance of consignment note, there cannot be a GTA service and therefore, no demand can be made from either consignor or consignee.

11. Learned Counsel for the appellant relied on catena of judgments i.e.

i) Narendra Road Lines Pvt Ltd Vs Commissioner of Customs, Central Excise & CGST, Agra, [2022 (64) G.S.T.L. 354 (Tri-All)].

ii) Mahanadi Coalfields Ltd., Vs Commissioner of Central Excise & Service Tax, BBSR-I, [2022 (57) G.S.T.L. 242(Tri-Kolkata)].

iii) East India Minerals Ltd., Vs Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-Ii, [2021 (44) G.S.T.L. 90 (Tri-Kolkata)].

iv) M/s Vedanta Ltd., Vs Commissioner of GST & Central Excise, Tirunelveli, Final Order No. 40672/2023 dated 05.09.2023 passed by CESTAT, Chennai.

v) M/s Sivasakthi Engineering & Fabricators Vs Commissioner of Central Excise, Customs & Service Tax Final Order No. 20417/2024 dated 20.05.2024 passed by CESTAT, Bangalore.

vi) M/s Vaishnav Marbles Pvt Ltd., Vs Commissioner of Central Excise, Central Goods & Service Tax, Udaipur, Final Order No. 55721 / 2024 dated 30.04.2024 passed by CESTAT, New Delhi.

vii) M/s Tabassum Enterprises Vs Commissioner of CGST & Central Excise, Kolkata Final Order No. 77452/2025 dated 19.09.2025 passed by CESTAT, Kolkata.

12. On the other hand, Learned Representative of the Department reiterates the findings of the Lower Authorities and also submitted that consignment notes may be, in any form even chit, slip, bill may be treated as consignment note.

13. Learned AR relied on the following judgments:

i) Commissioner of Central Excise, Lucknow Vs Kisan Sahkari Chini Mills Ltd., Manu/UP/4942/2017, High Court of Allahabad (Lucknow Bench).

ii) S.V.R. Electricals Pvt Ltd., Vs Commissioner of Customs & Central Excise, Guntur, 2016 (43) S.T.R. 574 (Tri-Hyd).

iii) Coromandel Agro Products & Oils Ltd., Vs Commissioner of Central Excise, Guntur, 2014 (33) S.T.R. 660 (Tri-Bang).

iv) Commissioner of Central Excise, Salem Vs Suibramania Siva Co-Op. Sugar Mills Ltd., 2014 (35) S.T.R. 500 (Mad).

v) M.L. Agro Products Ltd., Vs Commissioner of Customs, Central Excise and Service Tax, Guntur 2017 (6) G.S.T.L. 94 (Tri-Hyd).

14. Heard Learned Counsel for the appellant Shri S. Sankaravadivelu and Learned Representative of Department Shri A. Rangadham and perused the records with their submissions.

15. Now, it is a settled principle of law that even if a person has provided Goods Transport Service but has not issued the consignment note, Service Tax from that person cannot be recovered under the category of GTA. Whereas, Learned AR submits that consignment note may be in any form like chit / slip / bill and that may be treated as consignment note. Therefore, there should be some kind of documents on the basis of which payment has to be made and then it could be considered as a consignment note also, and that any agreement can be even oral.

16. Hon'ble Allahabad High Court in the case of Kisan Sahkari Chini Mills Ltd., (supra), referred by Learned AR held that a Goods Transport Agency, i.e. a person who provided services in relation to transport of goods by road and issues consignment note (by whatever name called) when rendered such service to any co-operative society established by or under any law; or company formed or registered under the Companies Act, 1956; or any body corporate established by or under any law; (or other category or persons detailed in clause (v) of Rule 2(d), which we do not find applicable in the case in hand), would be liable to pay Service Tax, which was upheld by Hon'ble Supreme Court in the case of Kisan Sahkari Chini Mills Ltd., (Manu/UP/4942/2017). This case law is not applicable in the instant case. Since, there is no any such consignment note.

17. Learned Representative of the Department also relied on Single Member decision of S.V.R. Electricals Pvt Ltd., (supra) and Coromandel Agro

Products & Oils Ltd., (supra). In both these cases it was decided that any person who provides service in relation to transport by road are liable to pay Service Tax. These decisions are not binding on a Division Bench and it is also important that there are catena of judgments of Co-ordinate benches of otherwise findings. Therefore, such decisions have no legal significance.

18. In the case of M.L. Agro Products Ltd., (supra) held that consignment notes can be issued in any form, Hon'ble Tribunal in this case observed that in the Appeal No. ST/341/2011, sample vouchers/invoices have been made available, where the truck number, amount and load have been described. In the instant cases, no such sample vouchers / invoices are available. Therefore it is distinguishable.

19. The consignment notes defined by explanation of Rule 4B Service Tax Rule, 1994 as follows:

"Explanation: For the purposes of this rule and the second proviso to rule 4A, "consignment note" means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency".

20. Therefore, where the law expects something to be done in a particular manner, it must be done only in that manner. A contract may be oral, but a consignment note can't be oral.

21. Therefore, it is not correct to hold that even weighing slip given by the appellant to the owner may be treated as consignment notes as argued by

Learned AR. Therefore, the note must have relevant information as required by law.

22. Co-ordinate Bench, Ahmedabad in the case of Chartered Logistics Ltd., (supra) held that transportation of goods by assessee would not be taxable as GTA service when consignment note was not issued by assessee and said service was clearly excluded from taxable services being covered in 'Negative List' entry under Section 66D(P)(i)(A) of the Finance Act, 1994. The order was upheld by the Hon'ble Supreme Court.

23. In the case of M/s Vaishnav Marbles Pvt Ltd and others, (supra) Principal Bench, New Delhi held that if a person has provided goods transport service but has not issued the consignment note, Service Tax from that person cannot be recovered under the category of GTA. The relevant para of the judgment as follows:

"From the aforesaid judgments, the settled principle of law is that even if a person has provided goods transport service but has not issued the consignment note, Service Tax from that person cannot be recovered under the category of GTA. The case of the appellant is on the same footing as he availed the services of individual transporters and truck owners and in the absence of issuing the consignment note, the appellant cannot be made liable to pay Service Tax under the category of GTA."

24. Even in the case of M/s Bothra Shipping Services vide Final Order No. A/30362/2025 dated 11.09.2025, this Bench already held that the issue is no longer res-integra that when there is no issuance of consignment note, there cannot be a GTA service and therefore, no demand can be made from either consignor or consignee. However, if GTA service has been provided, then they are liable to pay Service Tax. Therefore, issue is already settled that when there is no issue of consignment note no demand can be raised.

25. In view of the above discussions and findings, the demand of Service Tax, interest and penalty are not sustainable and the same is accordingly set aside.

26. The appeals are allowed with consequential relief, if any, as per law.

(Pronounced in open court on 28.11.2025)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)