



2026:DHC:1765-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 24th February, 2026

Pronounced on: 27th February, 2026

+ **SERTA 12/2026**

PRINCIPAL COMMISSIONER OF CGST
CENTRAL GST SOUTH COMMISSIONER
PLOT NO.2-B, 3RD FLOOR, EIL ANNEXE,
BHIKAJI CAMA PLACE,
NEW DELHI - 110066
EMAIL: commr.gstsouth@gov.in, legal.cgstdelhisouth@gov.in

.....APPELLANT

Through: Ms. Monica Benjamin, SSC with
Ms. Nancy Jain, Adv.

versus

M/S PRO-INTERACTIVE SERVICES INDIA
PVT. LTD.
31-32, BEGUMPUR SHIVALIK,
MALVIYA NAGAR,
NEW DELHI – 110017
EMAIL: info@prointeractive.in, www.prointeractive.co.in

.....RESPONDENT

Through: Mr. Ruchir Bhatia, Mr. Sumit Bhatia,
Ms. Lopamadura Mahapatra, Advs.



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CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT

AJAY DIGPAUL, J.

1. The present appeal has been filed by the appellant under Section 35G of the Central Excise Act, 1944¹ read with Section 83 of the Finance Act, 1994² challenging the impugned order dated 04.09.2025 passed by the Customs, Excise and Service Tax Appellate Tribunal³ in Service Tax Appeal No. 52302/2022.
2. A brief background of the present case is that the respondent is engaged in providing taxable services under the category of “Security/Detective Agency Services”, “Manpower Recruitment/ Supply Agency Services”, and “Construction Services other than Residential Complex Including Commercial/Industrial Building or Civil Structures”.
3. An investigation was conducted by the Directorate General of Goods and Services Tax Intelligence, during the course of which it was observed, *inter alia*, that the respondent had allegedly wrongly availed exemption in respect of services stated to have been provided to foreign embassies and entities without fulfilling the prescribed conditions.
4. It was alleged that the respondent had claimed exemption in respect of guarding and security services provided to foreign embassies and establishments.

¹Hereinafter ‘Central Excise Act’

²Hereinafter ‘Finance Act’

³ Hereinafter ‘CESTAT’



5. With effect from 01.07.2012, upon the introduction of the negative list regime, the levy of service tax was governed by Section 66B of the Finance Act, which provided for taxation of all services, other than those specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another for consideration. The “Security Services” not being specified in the negative list under Section 66D, continued to remain exigible to service tax under the Act.

6. Exemption in respect of services provided to foreign diplomatic missions was available under Notification No. 27/2012-ST dated 20.06.2012⁴ issued by the then Central Board of Excise and Customs, subject to compliance with specified conditions.

7. The conditions are reproduced below:

“(i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to exemption from service tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;”

“(ii) that in case of diplomatic agents or career consular officers posted in the foreign diplomatic mission or consular post in India, the Protocol Division of the Ministry of External Affairs or the Protocol Department of the State concerned issues to each of such diplomatic agent or career consular officer an identification card bearing unique identification number and containing a photograph and name of such diplomatic agent or career consular officer and the name of the foreign diplomatic mission or consular post in India, where he is posted;”

“(iii) that the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorized by him, shall furnish to the provider of taxable service, a copy of such certificate duly authenticated by him or the authorised person, alongwith an undertaking in original,

⁴Hereinafter ‘Notification’



signed by him or the authorised person, bearing running serial number commencing from a financial year and stating that the services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family mentioning the unique identification number as appearing in the identification card issued to them and stating that the services received are for personal use of the said diplomatic agent or career consular officer or members of his/her family.

(iv) that the head of the foreign diplomatic mission or consular post or the authorised person shall maintain an account of the undertakings issued during a financial year and the account shall contain:-

(a) the serial number and date of issue of the undertakings;

(b) in case of personal use of diplomatic agents or career consular officers posted in the foreign diplomatic mission or consular post in India, the name, designation and unique identification number of the diplomatic agent or career consular officer in favour of whom the undertaking has been issued;

(c) the name and the registration number of the provider of taxable service; and

(d) the description of taxable service and invoice number.

(v) The invoice or bill, or as the case may be, the challan issued under the provisions contained in rule 4A of the Service Tax Rules, 1994, shall, in addition to the information required to be furnished under the said rule, contain the serial number and the date of the undertaking furnished by the said head of foreign diplomatic mission or consular post or in case of diplomatic agents and career consular officers posted in such foreign diplomatic mission or consular post in India, the unique identification number of the diplomatic agent or career consular officer, as the case may be; and

(vi) that the provider of taxable service shall retain the documents referred to in conditions (i), (ii) and (iii) alongwith a duplicate copy of the invoice issued, for the purposes of verification. ”

8. A Show Cause Notice dated 04.09.2019 was issued to the respondent by the DGGI, proposing recovery of service tax from the respondent amounting to Rs. 3,75,95,778/- along with interest and imposition of penalties.



9. Thereafter, the Order-in-Original dated 26.08.2022⁵ was passed by the Commissioner of CGST, Delhi South Commissionerate, confirming the duty with interest while imposing equal penalty under Section 78 of the Finance Act and penalty of Rs. 5,000/- under Section 77.

10. Aggrieved thereby, the respondent preferred an appeal against the OIO, before the CESTAT. By the impugned order, the CESTAT remanded the matter to the adjudicating authority for the limited purpose of verifying the certificates produced by the respondent and for granting exemption to the extent found admissible upon such verification. The CESTAT observed that the substantive requirement of the Notification was the provision of services to diplomatic missions, that certificates had since been obtained in most cases, and that the adjudicating authority had not examined all such certificates. The CESTAT further directed that the benefit of cum-duty be extended wherever applicable and set aside the penalties.

11. The findings of the CESTAT are set out below:

“10. We find that as far as the Notification No. 27/2012 is concerned substantive condition is that of provision of services to embassies/diplomatic missions. There is no dispute regarding the same. Among the procedural conditions, the appellant submits that they have since complied now by having the certificates (except in 6 cases) issued by respective embassies/diplomatic missions; some certificates were submitted before the adjudication and some have been since obtained. Therefore, we are of the considered opinion that the substantive compliance of the Notification No. 27/2012 is fulfilled when the appellants have rendered services to the diplomatic missions and obtained certificates. We find that the adjudicating authority did not have an opportunity to go through all the certificates and to extend the benefit of the Notification. Under these circumstances, we are of the considered opinion that the matter should go back to the adjudicating authority to

⁵Hereinafter ‘OIO’



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verify the certificates produced by the appellants and to allow the exemption to the extent of availability of the certificates. We are of the view that cum-duty benefit needs to be extended, wherever applicable. Penalties are however, set aside.”

12. Ms. Monica Benjamin, learned counsel for the appellant has vehemently argued that the CESTAT has erred in construing the Notification dated 20.06.2012 by treating the rendering of services of foreign diplomatic missions as the sole substantive condition and by regarding the remaining stipulations as procedural. It is urged that the certificates issued by the Protocol Division of the Ministry of External Affairs, founded on reciprocity, are integral to the exemption and contain specific conditions, duration and limitations. Compliance with paragraphs (v) and (vi) of the Notification, including retention of authenticated certificates, original undertakings with running serial numbers, unique identification numbers and correlated invoices, is stated to be mandatory. The Tribunal, according to the Revenue, failed to examine these requirements in their proper perspective.

13. Reliance is placed on *Commissioner of Customs v. Dilip Kumar & Co.*⁶ to submit that exemption notifications must be strictly construed and that the doctrine of substantial compliance cannot dilute mandatory conditions. Reference is also made to *Preeti Chandra v. Directorate of Enforcement*⁷ and *Vodafone India Services Pvt. Ltd. v. Union of India*⁸ in support of strict interpretation of fiscal statutes.

⁶(2018) 9 SCC 1

⁷(2023) 9 Contax 96 (Del.)

⁸(2014) 368 ITR (Bom)



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14. It is further urged that the CESTAT erred in setting aside penalties under Sections 77 and 78 of the Finance Act despite findings of suppression, willful misstatement, delayed filing of ST-3 returns and improper claim of exemption. The direction to extend cum-duty benefit is also assailed on the ground that there was no evidence that the consideration received was inclusive of service tax.

15. On these grounds, the Revenue submits that the impugned order gives rise to substantial questions of law warranting interference.

16. This Court has considered the matter. The present appeal assails the order dated 04.09.2025 passed by the CESTAT, whereby the matter has been remanded to the adjudicating authority for verification of certificates produced by the respondent and for grant of exemption under the Notification to the extent found admissible. The CESTAT has also extended the benefit of cum-duty and set aside the penalties.

17. The appellant contends that the CESTAT erred in treating the rendering of services to foreign diplomatic missions as the only substantive requirement and in holding the remaining conditions to be procedural. It is urged that exemption notifications must receive strict construction and that, in case of doubt, the benefit must enure to the Revenue.

18. There can be no dispute as to the principle that an exemption notification must be strictly construed. However, strict interpretation operates at the stage of determining eligibility. Once an assessee demonstrates that it falls within the ambit of the notification, the conditions therein must be applied in accordance with their tenor. The principle does



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not justify denial of exemption where substantive compliance is shown, and the matter merely requires factual verification.

19. The question of substantive compliance, thus, is not in dispute, as recorded in paragraph 10 of the impugned order (*supra*).

20. The Notification exempts specified services provided to foreign diplomatic missions or consular posts, subject to enumerated conditions. The CESTAT has recorded that there is no dispute regarding the fact that the respondent rendered services to diplomatic missions. It has further noted that the certificates contemplated by the notification have been obtained, though some were produced subsequent to adjudication. The adjudicating authority did not examine all such certificates. Obviously if the respondent was not rendering any service to the foreign embassies or diplomatic missions, the exemption would not apply.

21. In these circumstances, the CESTAT has not granted exemption outright. It has remitted the matter to the adjudicating authority to verify the certificates and to extend the benefit only to the extent the conditions are found to be satisfied. The direction is limited and conditional. It neither dispenses with the requirement of certification nor dilutes the mandatory character of the Notification.

22. The contention that the issuance of certificates by the Ministry of External Affairs is integral to the exemption does not advance the appellant's case. The CESTAT has not held otherwise. The Department has in fact admitted that the certificates were issued by the Protocol Division of the Ministry of External Affairs. It has merely directed verification of the



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certificates produced. If, upon such verification, the certificates are found wanting or non-compliant, it remains open to the adjudicating authority to deny the benefit accordingly.

23. We have also considered the challenge to the remand. The CESTAT, upon appraisal of the material on record, formed the view that further factual scrutiny was necessary before a final determination could be rendered. The remand is confined to verification of documentary compliance and consequential grant of relief, if admissible. Such exercise of discretion, particularly in a matter turning upon documentary evidence, cannot be characterized as arbitrary or perverse. It is well within the appellate powers of the CESTAT to adopt such a course to secure a proper adjudication.

24. An appeal under Section 35G of the Central Excise Act lies only on substantial question of law. The order impugned is essentially one directing factual verification and does not give rise to any such question warranting interference.

25. The appeal, along with pending applications, is dismissed in the above terms.

**AJAY DIGPAUL
(JUDGE)**

**NITIN WASUDEO SAMBRE
(JUDGE)**

FEBRUARY 27, 2026/AS/dd