

**Cce, Chandigarh and Others Vs. M/S. Rambel Consumer Services and Others**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Principal Bench New Delhi

**Decided On :** Feb-27-2014

**Judge :** G. Raghuram, President & Rakesh Kumar, Member (Technical)

**Appeal No. :** Appeal No. ST/240-241/2008 [Arising Out of Order-in-Appeal No. 162-163/CE/CHD/2008 dated 20.2.2008 passed by the Commissioner (Appeals), Central Excise, Chandigarh] No. ST/10/2009 (Arising Out of Order-in-Appeal No. 701/CE/Appl/Jal/2008 dated 4.11.2008 passed by the Commissioner (Appeals), Central Excise, Jalandhar) No. ST/20/2009 (Arising Out of Order-in-Appeal No. 752/CE/Appl/Jal/2009 dated 14.11.2008 passed by the Commissioner (Appeals), Central Excise, Jalandhar), No. ST/810/2009 (Arising Ou

**Appellant :** Cce, Chandigarh and Others

**Respondent :** M/S. Rambel Consumer Services and Others

**Judgement :**

G. Raghuram, J.

1. Heard Id. Counsels for the several appellants and Shri Jain Id., DR for the respondent/Revenue.

2. The appellants herein (except the appellant in ST/206/2011) are either principal agents or sub-agents of overseas entities providing money transfer services, either M/s Western Union Network Ltd. or M/s Money Gram Payment Inc; as the case may be. Other appeals are preferred by Revenue.

3. Assesseees have preferred appeals against appellate orders, rejecting appeals and confirming primary adjudication orders levying service tax, interest and penalties on the ground that assesseees had provided Business Auxiliary Service (BAS) to either the principal Indian agent, or wherever the assesseees are the principal agent to the overseas entity which is in the business of money transfers. Revenue appeals are preferred primarily against orders of appellate Commissioners deleting penalty imposed under Section 76 and on the ground penalties were imposed under Section 78, hence penalty under Section 76 could not be imposed. Service Tax Appeal No. 206/2010 is by the principal Indian agent M/s Western Union Network Ltd.

4. As all appeals involve identical issues of fact and law, these are disposed of by this common order, after hearing the Id. Counsel of the assesseees and Id. DR for the respondent/Revenue.

5. A conflict of opinion between two Members who recorded the initial judgment was referred to a Id. Third Member. The majority view of the Larger Bench was pronounced on 21.11.2012. This decision is reported in 2013 (29) STR 257 (Tri.-LB). The appellants therein were the principal agent and sub-agent of M/s Western Union Network Ltd., the foreign entity pursuing the business of Money Transfers.

6. In ST appeal Nos. 126/2009 and 285/2009 the appellants are sub-agents of the principal agent M/s Airwing Services Pvt. Ltd. (an Indian entity), which is the principal agent of M/s Money Gram (a foreign entity) also providing money transfer services, an activity identical to the business model and activity of M/s Western Union Network Ltd.

7. Some of Revenues appeals are also against orders of the appellate Commissioner allowing assesseees appeals in to to and applying the provisions of the Export of Service Rules, 2005.

8. There is no dispute before us, that as a consequence of the ratio discernable from the judgement of the Larger Bench in Paul Merchant Ltd. principal agents and sub-agents of M/s Western Union Ltd. and similarly circumstanced foreign Money Transfer entities are not liable to service tax under provisions of the Act; since the services provided by these agents amounts to export of services and these are exempted from the levy of Service Tax under the Export of Service Rules 2005. As on date the decision of the Larger Bench in Paul Merchant Ltd. is extant and operative and has not suffered any appellate eclipse. In the circumstances these appeals are required to be allowed and are accordingly allowed. There shall however be no order as to costs.

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