

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, MUMBAI  
REGIONAL BENCH  
Court No.5**

**Service Tax Appeal No. 86077 of 2016**

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-118 to 121-15-16 dated 29.01.2016 passed by the Commissioner of Service Tax-II, Mumbai)

**Transocean Offshore Deepwater Drilling Inc.      Appellant**  
Transocean House, Lake Boulevard Road,  
Hiranandani Business Park,  
Powai, Mumbai 400 076.

Vs.

**Commissioner of Service Tax-II, Mumbai      Respondent**  
115, New Central Excise Building, M.K. Road,  
Churchgate, Mumbai 400 020.

WITH

**Service Tax Appeal No. 86081 of 2016**

(Arising out of Order-in-Appeal No. MUM-SVTAX-002-APP-118 to 121-15-16 dated 29.01.2016 passed by the Commissioner of Service Tax-II, Mumbai)

**Transocean Offshore Deepwater Drilling Inc.      Appellant**  
Transocean House, Lake Boulevard Road,  
Hiranandani Business Park,  
Powai, Mumbai 400 076.

Vs.

**Commissioner of Service Tax-II, Mumbai      Respondent**  
115, New Central Excise Building, M.K. Road,  
Churchgate, Mumbai 400 020.

Appearance:

Shri Vinay Jain, Advocate with Shri Shyam Mangukiya, C.A., for the Appellant  
Shri A.P.S. Parihar, Superintendent, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)**  
**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

Date of Hearing: 13.12.2024  
Date of Decision: 13.12.2024

**FINAL ORDER No. 87524-87525/2024**

PER: DR. SUVENDU KUMAR PATI

We have heard from both the sides on these two appeals.

2. In respect of appeal No. ST/86081/2016, in response to our query made on 10.08.2023, learned AR has submitted a

photocopy of the letter issued by the Additional Commissioner, Central Tax & Central Excise, Navi Mumbai issued on 13.12.2023, that indicates that there was no file available in their office to verify as to on which date order-in-original No. 2324/R/(KHA)/2010-11 dated 24.03.2011 was served on the appellant, which the appellant has claimed to have received on 10.02.2012 on the basis of request made by it and the same has been acknowledged by learned Commissioner (Appeals) in his order-in-appeal at para 6.1 and this appeal was decided only on the ground that it was filed much after 90 days of receipt of the order and, therefore, the same is time barred as was well beyond the condonable period available with the Commissioner to maintain such appeal. Having regard to the fact that, on record only available date of receipt is found to be 10.02.2012, on which date the Superintendent of concerned Excise office also had attested the same order-in-original, we are of the view that there was no delay in filing the appeal before the Commissioner (Appeals) for which he should have decided the appeal on merit and having regard to the fact that Section 35A(4) of the Central Excise Act, 1944, equally applicable to service tax matters in view of sub-section (5) of Section 85 of the Finance Act, 1994, the Commissioner (Appeals) should state in writing the point for determination, the decision thereon and the reasons on the basis of which he has disposed of the appeal, which is admittedly not done in the instant case. We are, therefore, of the view that this matter is required to be remanded back to the Commissioner (Appeals) for a *de novo* hearing and passing of necessary orders in compliance to Section 35A(4) of the Central Excise Act, equally applicable to service tax matters.

3. We have also heard from both the sides on appeal No. ST/86081/2016.

4. Learned counsel for the appellant submits that territorial jurisdiction of Chapter V of the Finance Act, 1994 was extended vide Notification No.1/2002-ST dated 01.03.2002 and further extended on 07.07.2009 to the designated areas of the continental shelf and exclusive economic zone of India and thereafter the said territory was broaden to cover the entire continental shelf and exclusive economic zone by Notification

No.14/2010-ST dated 27.02.2010 and the appellant's period of dispute pertaining to this appeal is confined to February 27, 2010, to which the previous notification read with notification dated 07.07.2009 would apply and taking into consideration all those aspects including a decided judgment passed by Hon'ble Bombay High Court in the case of Greatship (India) Ltd. vs. CST, Mumbai-I reported in 2015 (39) STR 754 (Bom.), this Tribunal in a bunch matter including the appellant's appeal for the other period had passed an order with nomenclature in the case of Deepwater Pacific 1 Inc vs. CST, Mumbai-VII reported in 2022 (67) GSTL 442 (Tri.-Mumbai) allowing the appellant's appeal and in setting aside the demand, for which this matter may also be remanded back to learned Commissioner (Appeals) for *de novo hearing* in the light of the recent decision of the Tribunal passed in appellant's favour, since for the other appeal that has arisen out of the common order assailed herein, the matter is being remanded.

5. Learned AR takes note of the submission and makes a submission that if the matter is remanded back for *de novo* hearing by the Commissioner (Appeals), he has no objection to such remand.

6. Taking note of the submissions and development on the issue, we remand both the appeals to the Commissioner (Appeals) for *de novo* hearing of the appeals keeping all issues open to be contested before him by both the sides and for that purpose the order passed by the Commissioner (Appeals) vide Order-in-Appeal No. MUM-SVTAX-002-APP-118 to 121-15-16 dated 29.01.2016 is set aside.

7. Both the appeals are allowed by way of remand.

(Order pronounced in the open court)

**(Dr. Suvendu Kumar Pati)**  
**Member (Judicial)**

**(Anil G. Shakkarwar)**  
**Member (Technical)**