

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

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 27323 of 2013

(Arising out of Order-in-Appeal No. 215/2013 dated 27.06.2013
passed by the Commissioner of Central Excise (Appeals-II),
Bangalore.)

M/s. Nag Interiors Pvt. Ltd.

No.83, "Nisa Enclave",
2nd Floor, M.M. Road,
Frazer Town,
Bangalore – 560 005.

Appellant(s)

VERSUS

The Commissioner of Service Tax

Bangalore Service Tax Commissionerate
No.16/1, 5th Floor,
S.P. Complex, Lalbagh Road,
Bangalore – 560 027.

Respondent(s)

WITH

Service Tax Appeal No. 20288 of 2020

(Arising out of Order-in-Appeal No. 347/2020 dated 23.07.2020
passed by the Commissioner of Central Excise (Appeals-I),
Bangalore.)

M/s. Nag Interiors Pvt. Ltd.

No.83, "Nisa Enclave",
2nd Floor, M.M. Road,
Frazer Town,
Bangalore – 560 005.

Appellant(s)

VERSUS

The Commissioner of Central Tax

GST East Commissionerate,
Traffic & Transit Management Centre,
BMTC Building, Above BMTC Bus Stand,
Domlur, Bangalore – 560 071.

Respondent(s)

AND

Service Tax Appeal No. 2906 of 2011

(Arising out of Order-in-Original No.152/2011 dated 22.09.2011
passed by the Commissioner of Service Tax, Bangalore.)

M/s. Nag Interiors Pvt. Ltd.

No.83, "Nisa Enclave",
2nd Floor, M.M. Road,
Frazer Town,
Bangalore – 560 005.

Appellant(s)

VERSUS

The Commissioner of Service Tax

Bangalore Service Tax Commissionerate
No.16/1, 5th Floor,
S.P. Complex, Lalbagh Road,
Bangalore – 560 027.

Respondent(s)

APPEARANCE:

Shri B. N. Gururaj, Advocate for the Appellant.

Shri M.A. Jithendra, Asst. Commissioner (AR) for the Respondent.

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 20880-20881, 20882 / 2025

DATE OF HEARING: 26.03.2025

DATE OF DECISION: 27.06.2025

PER: P. A. AUGUSTIAN

The issue in the present appeals is whether the activity carried out by the appellant amounts to 'Completion and Finishing Service' as defined under Section 65(105)(zzq) of the Finance Act, 1994 and whether the appellant is eligible to avail the benefit of Notification No.12/2003-ST dated 20.06.2003.

Alleging that the appellant had rendered service without payment of proper service tax, investigation was commenced on 27.02.2007; thereafter first show-cause notice was issued on 7.9.2010 alleging that the appellant had short-paid service tax for the period from 16.06.2005 to 31.03.2010 (ST/2906/2011). Thereafter, second show-cause notice was issued on 14.10.2011 for the period from April 2010 to March 2011 (ST/27323/2013); third show-cause notice was issued on 19.10.2012 for the period from April 2011 to March 2012; and fourth show-cause notice was issued on 5.5.2014 for the period from April 2012 to June 2012 covered by appeal No. ST/20288/2020. Thereafter, the adjudicating authority had confirmed the demands as alleged in the show-cause notices. Aggrieved by these orders, appellants have filed these present appeals.

2. When the appeal came up for hearing, the learned counsel for the appellant submitted that the entire demand of service tax is on gross amount received including the value of goods consumed for providing taxable service and it is *ultra vires* to charging section under Section 65. Learned counsel further submitted that the activity carried out by the appellant is works contract and appellant had paid VAT on the value of goods consumed under Karnataka VAT Act, 2004 and appellant paid service tax on the balance amount. The VAT assessment orders are sufficient documentary evidence regarding value of the goods for availing the benefit of Notification No.12/2003-ST dated 20.06.2003. The learned counsel also drew our attention to Circular F.No.B1/16/2007-TRU dated 22.05.2007 wherein it is clarified that contracts that are treated as 'works contract' for the purpose of levy of VAT /Sale Tax shall also be treated as works contract for the purpose of service tax. However, the respondent is considering the activity as 'completion and

finishing service' but the appellant was carrying out the activities and registered under Interior Decorations and Commercial or Industrial Service. Learned counsel further submits that the issue is no more *res integra* and stands settled by the following decisions:

- **Total Environment Building Systems P. Ltd. vs. DCCT: 2022 (63) GSTL 257 (SC)**
- **CCE vs. Height Consultants: 2019 (22) GSTL 431 (Tri.-Del.)**
- **Safety Retreading Co. Pvt. Ltd. vs. CCE: 2017-TIOL-28-SC-ST**
- **Larsen & Toubro Ltd. vs. CCE, Kolkata: 2023 (72) GSTL 361 (Cal.)**

2.1 Learned counsel further submitted that as per the impugned order, adjudicating authority refused to exclude the value of goods while computing the service tax liability on the ground that appellant has not complied with the conditions of Notification No.12/2003-CE dated 20.03.2003. The learned counsel also submitted that as per the judgment of the Hon'ble Supreme Court in the case of **Safety Retreading Co. Pvt. Ltd.** (supra), it is held that once payment is made on the goods portion under VAT and the value of the goods covered on such VAT paid, value of goods has to be excluded.

3. The learned Authorized Representative (AR) reiterating the findings in the impugned order, submitted that the activity carried out by the appellant is not falling under the 'works service contract' since they have not obtained registration under 'works contract service' but registered under the category of 'Interior Decorators and Commercial or Industrial Construction Service'. Learned AR further submitted that though they are

carrying out activities falling under the service tax for the period and they obtained service tax registration on 8.1.2007, but they have not opted for works contract service with came to effect from 1.6.2007 and not discharged appropriate service tax liability during the period from 16.5.2005 to 30.06.2012. The learned AR also drew our attention to Notification dated 20.6.2003 and submitted that the benefit of the Notification can be extended to appellant only if they fulfilled the condition regarding documentary proof indicating the value of the said goods and material. In the absence of such evidence, the adjudicating authority rightly confirmed the demand with interest and imposed penalty.

4. Heard both sides. It is an admitted fact that appellant was paying service tax during the period of dispute but excluded the value of goods on which VAT was paid by them. Even though the activity was classified by them under the category of 'Interior Decorators and Commercial or Industrial Construction Service', we find that the appellant was paying service tax by opting the scheme as per the State VAT Rules and also submitted evidence regarding payment of VAT on the value of goods/materials during the relevant period and paid service tax on the balance amount. Further, as evident from the ST-3 returns filed and relied by the appellant shows the value of 'works contract service' and the value of material separately. Fact being so, alleging that the appellant had violated the provision of law is *prima facie* unsustainable. Considering the same, the classification of the activity by the adjudicating authority under 'works contract service' is confirmed. Further, we find that the appellant was paying service tax by opting the scheme as per the State VAT Rules and also submitted evidence regarding payment of VAT against the value of goods/materials during the

relevant period and paid service tax on the balance amount. Following the judgment of Hon'ble Supreme Court in **Safety Retreading Co. Pvt. Ltd.** (supra), once payment is made on the goods portion under VAT and the value of the goods covered on such VAT paid, value of goods has to be excluded. Thus the appellant fully discharged the service tax liability.

5. Accordingly, the Appeal No. 2906/2011 is allowed. As regarding Appeal No. ST/27323/2013 and ST/20288/2020, classification of the service under "Works Contract Service" is upheld. Since, the appellant paid service tax under the category of "Interior Decorations and Commercial or Industrial Service" on gross amount excluding the value of goods materials where VAT was paid, the appropriation of the said amount as per the impugned orders under works contract service is upheld. Appeal No. ST/27323/2013 and ST/20288/2020 are partially allowed accordingly.

(Order pronounced in Open Court on 27.06.2025.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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