

Service Tax not applicable on GTA Service as Carting Challan, not equivalent to Consignment Note

In ***Mukesh Kumar Jaiswal v. Commissioner (Appeals) [Service Tax Appeal No. 53294 of 2018-SM dated July 26, 2021]***, Mukesh Kumar Jaiswal (“**the Appellant**”), transporter of goods and other products has filed the current appeal challenging the *Order-in-Appeal No. BHO-EXCUS-001-775-17-18 dated February 28, 2018 (“OIA”)* in which the Commissioner (Appeals) (“**the Respondent**”) upheld the demand of Service Tax.

The Respondent in the OIA observed that the Cartage Challan issued by the Forest Department for transportation from inside the forest to the depot is in the nature of Consignment Note, and the Appellant is also responsible to account for any shortage in the course of transportation. The carting Challan being equivalent to consignment note, the Appellant qualifies for the Goods Transport Agency (“**GTA**”) under the Finance Act, 1994 and is thus liable to pay Service Tax.

The Hon’ble CESTAT, Delhi observed that Carting Challan is not equivalent to a Consignment note. Carting Challan is only for internal control of forest department whereas a Consignment Note is a negotiable instrument in which the transporter is bound to deliver the goods to a bonafide holder of title.

Further noted that because the elements of a “consignment note” are not present in the “carting challan”, the Appellant therefore has not rendered the services under the definition of GTA, therefore not liable to pay Service Tax.

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