

Best Road Carriers vs. Principal Commissioner of CGST, Alwar

Whether a transporter who merely transports goods by road without issuing a consignment note is a Goods Transport Agency (GTA) liable to service tax, or a Goods Transport Operator (GTO) covered under the negative list under Section 66D(p) of the Finance A

Date of Order: June 5, 2026
Case Law No: GIB-(CSTAT)-2026-53
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CASE DESCRIPTION / SUMMARY

BACKGROUND

The appellant is engaged in the activity of transportation of goods by road. The department received third-party TDS data from the Income Tax Department showing gross receipts of Rs. 16,90,38,430/- by the appellant under Sections 194C/194H/194I/194J of the Income Tax Act. The department issued summons requiring the appellant to submit Income Tax Returns, TDS Returns, Balance Sheet, 3CD, Trial Balance and service-wise receipts chart. The appellant did not comply. The department alleged that the appellant had rendered taxable services without discharging service tax liability and issued Show Cause Notice No. 54/2016 dated 09.09.2019 proposing recovery of service tax of Rs. 2,08,93,150/- along with interest and penalties. The demand was confirmed by the Principal Commissioner vide Order-in-Original dated 06.01.2022, holding the appellant to be a GTA. Being aggrieved, the appellant filed the present appeal before CESTAT.

COURT OBSERVATIONS (VERBATIM)

On the statutory definition and twin conditions for GTA (Para 4.2):

"It is clear that to be called 'Goods Transport Agency' a person should fulfill two conditions, namely: a) It should provide service in relation to transport of goods by road; b) It should issue consignment note, by whatever name called."

On the distinction between GTA and GTO — from Jaikumar Fulchand Ajmera (Para 4.3):

"We observe that since GTA definition has used the words, 'in relation to', it means that for being a GTA, it should provide service to a person in relation to transportation of goods by road in a goods

carriage. The service provided is a single composite service which may include various intermediary and ancillary services such as loading/unloading, packing/unpacking, transshipment, temporary warehousing. For the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said services includes the value of intermediary and ancillary services. In such a case, the intermediary or ancillary activities are to be treated as part of GTA service... Whereas GTO is the activity simpliciter for transport of goods by roads without issuance of Consignment Note, irrespective transporter being GTA or not."

On the definition of GTA remaining unchanged under negative list regime (Para 4.4):

"We also observe that the definition of GTA remained the same even after introduction of negative list regime. Service being determined by issuance of consignment note under the statute, it is not within the ambit of a subordinate legislation to create the class of taxable persons by imposing a condition that would, perforce, bring such persons within the tax net."

On undisputed facts establishing appellant as GTO (Para 4.5):

"(i) Appellant is not registered under Carriage by Road Act, 2007 and hence, is not a GTA; hence, is not at all required to issue a 'consignment note'; (ii) Appellant charges 'mere freight', as agreed, but does not charge 'gross freight'; (iii) Appellant engages merely in the service of providing transportation of goods by road but does not provide the services 'in relation thereof'..."

On the Schedule of Responsibilities further establishing GTO character (Para 4.5):

"a. Loading of the consignment is done by Safexpress personnel in the vehicles. b. The delivery must be done within transit time and the appellant shall ensure to maintain the same despite various unavoidable causes of delay. c. All waybills as well as transit documents are provided by Safexpress and carried by the appellant. d. Appellant is not responsible for any damage to the property unless it is caused out of his own negligence like rash driving of the driver. e. Appellant will submit the waybills, permits, transit passes etc. at the destination with the due endorsements. f. Unloading of the consignment is done by the recipient at destination."

On the final conclusion (Para 5):

"Since under GTA it is only such of these services which are in relation to transport of goods by road which are taxable and not the actual transport of goods by road itself. And that appellant has not rendered any service in relation to transport of goods by road like loading/unloading nor even for reimbursing for damage and not issuing the consignment note except mere transport of Goods by road. No evidence to the contrary is produced by the department. Resultantly we hold that appellant's activity is wrongly held to be taxable service of Goods Transport Agency."

FINAL VERDICT

The CESTAT set aside the Order-in-Original and allowed the appeal, holding that the appellant is a Goods Transport Operator (GTO) and not a Goods Transport Agency (GTA). The activity of mere transportation of goods by road without issuance of a consignment note and without rendering ancillary services is covered under the negative list under Section 66D(p)(i) of the Finance Act, 1994 and is not liable to service tax. □

ADDITIONAL FOOTNOTES**CITATIONS REFERRED BY THE COURT**

S.No.	Case Name	Citation
1	Lakshminarayanan Mining Co. vs. Commissioner of ST, Bangalore	2009 (9) TMI 71
2	K.M.B. Granites (P.) Ltd. vs. CCE	MANU/CC/0058/2010
3	M/s SRF Limited vs. CCE, Indore	2018 (6) TMI 387
4	M/s Seaport Logistics Pvt. Ltd. vs. Commissioner of GST & CE, Chennai	2025 (2) TMI 627
5	Nandganj Sihori Sugar Co. Ltd. and others vs. CCE, Lucknow	2014 (34) STR 850 (Tri-Del.)
6	Commissioner of Central Excise, Guntur vs. Kanaka Durga Agro Oil Products Pvt. Ltd.	2009 (15) STR 399 (Tri.-Bangg.)
7	Shreesanth Mhaskoba Sakhar Karkhana Ltd. vs. Commissioner of Central Excise, Pune-III	2017 (3) GSTL 199 (Tri.-Mumbai)
8	Commissioner of Central Excise and Service Tax, Aurangabad vs. Jaikumar Fulchand Ajmera	2017 (48) STR 52 (Tri.-Mumbai)
9	Lakshmi Narayana Mining Company vs. Commissioner of Central Tax, Bengaluru	2019 (7) TMI 917