

Commissioner of Central Excise & Service Tax, Bangalore (Adjudication) v. M/s Northern Operating Systems Pvt. Ltd.

Whether secondment of employees by overseas group companies to the Indian entity is a taxable “manpower recruitment or supply agency service” received by the Indian entity under reverse charge (Finance Act, 1994), and whether the extended period of li

Date of Order: May 19, 2022
Case Law No: GIB-SC-2022-06
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The assessee provided back-office and operational support to its overseas group companies (USA, UK, Ireland, Singapore and others). Employees of those companies were seconded to it and worked under its control, but remained on the overseas payroll for social security; the overseas entity paid their salaries and recovered them from the assessee through debit notes without mark-up, while the assessee issued them employment letters and deducted TDS. Four show cause notices covering October 2006 to September 2014 demanded service tax under reverse charge. The Commissioner confirmed two and dropped the later two, and CESTAT ruled in the assessee's favour. The Revenue appealed.

Final Verdict

Applying substance over form, and holding that the nomenclature of a contract is not decisive and no single test governs, the Supreme Court read the agreements together. Though the assessee had operational control, the secondees stayed on the overseas payroll, were paid in foreign currency with a hardship allowance under the overseas employer's policy, served for a fixed tenure and were repatriated under its global mobility policy; the overseas group's business was to deploy its skilled personnel. Consideration was implicit in the reimbursement and the economic benefit derived, and revenue neutrality was held irrelevant to the incidence of tax. The Court held that **the assessee was, for the relevant period, service recipient of the overseas group company concerned, which can be said to have provided manpower supply service**. However, since the assessee's view was bona fide, being supported by CESTAT rulings and by the Revenue itself dropping the later

notices, **the invocation of the extended period of limitation was unjustified**. The appeals were partly allowed and the demand was confined to the normal period.

© 2026 GST INDIA Biz. All rights reserved.

GST INDIA BIZ