

## **No refund of service tax can be denied prior to their registration with the department**

**Dear Professional Colleague,**

We are sharing with you an important judgment of Hon'ble CESTAT-Chennai in the case of **M/s Varizon Data Services (I) (P) Ltd. Vs. CST, Chennai [2012-TIOL-1512-CESTAT-MAD]** on the following issue:-

**Issue:** Whether the assessee is entitled for refund of service tax prior to their registration with the department?

**Facts:** The Revenue is in appeal against the order of Commissioner (Appeals) wherein he has allowed the refund of service tax prior to the assessee's registration with the service tax department. The Commissioner (Appeals) had relied upon the following case laws to decide the case in the favour of respondents:

- **M/s. Textech International (P) Ltd. Vs. CST, Chennai [2010-TIOL-1800-CESTAT-MAD]**
- **Commissioner of Service Tax vs. E-Care India Pvt.Ltd. [2011 (22) STR 529 (Tri.-Chen.)]**

Aggrieved from the said orders, an appeal was filed by the Revenue before the CESTAT.

**Held:** The decision of the Hon'ble Karnataka High Court, in the case of *mPortal India Wireless Solutions (P) Ltd. Vs. CST* [2011-TIOL-928-HC-KAR-ST] on an identical issue was relied upon to decide the above issue. It was held that as there is no statutory provision which prescribes that registration is mandatory for an assessee to be entitled for the benefit of refund, the assessee cannot be denied the claim for refund.

Accordingly, the appeal of the Revenue was dismissed and the case was decided in favour of the assessee.

*Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.*

Thanks & Best Regards.

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