**(2015) 10 CESTAT CK 0024**

**In the Customs, Excise And Service Tax Appellate Tribunal**

**Case No :** Service Tax Appeal No. 270 Of 2008

Northern Coalfields Limited — APPELLANT

Vs

C.C & C.Ex, Bhopal — RESPONDENT

**Date of Decision :** 29-10-2015

**Acts Referred:**
Finance Act, 1994 — Section 65(50a), 65(50b), 65(105)(zzp)
Service Tax Rules, 1994 — Rule 46, 48

**Citation :** (2015) 10 CESTAT CK 0024

**Hon'ble Judges :** G. Raghuram, J;C. J. Mathew, Technical Member

**Bench :** Division Bench

**Advocate :** Akshat Srivastava, Amresh Jain

**Final Decision :** Allowed

## Judgement

1. Heard the Id. Counsel for the appellant and the Id. A.R. for Revenue.

2. The appeal is preferred against the adjudication order dated 9.1.2008, confirming demand of service tax of Rs.90,81,301/- along with interest and

penalty, as specified therein. The demand is assessed on the premise that the appellant received transport of goods by road service, defined in Section

65(50a) and (50b) read with Section 65(105)(zzp). The period involved is 1.1.2005 to 30.9.2006.

3. During the relevant period the appellant - M/s Northern Coalfields Ltd., Singrauli (M.P.) engaged the services of several transporters for transport

of mined coal from coal face to coal stockyards in appellant's own dumpers. From the coal stockyards the coal was loaded into tippers and conveyed

to the coal handling plant situate within the mine premises. The tippers were weighed at the NCL weighbridge. At the weighbridge payment slips were

generated disclosing relevant particulars such as truck number, gross weight etc.

As the truck registration numbers are specific for each transporter,

transport services undertaken by each of the contractors is eventually identified and payments were made on this basis. Statements of some other

transporters engaged by the appellant were recorded during the process of adjudication which revealed that no consignment notes were generated by

the transporter and payments were made only on the basis of particulars generated during weighment.

4. Rejecting the contention of the appellant that the activity falls outside the purview of transport of goods by road services, the impugned order

confirmed the demand.

5. The definition of ""Goods Transport Agency"" in Section 65(50b) clearly specifies that Goods Transport Agency means any person who provides

services in relation to transport of goods by road and issues a consignment note by whatever name called. The Explanation under Rule 46 of the

Service Tax Rules, 1994 clarifies that consignment note is a document, issued by a goods transport agency against the receipt of goods for the purpose

of transport of goods in a goods carriage and contains other specifiied details.

6. Clearly, as no consignment note as generally understood or delineated in Rule 48 was issued by the transporters to the appellant in the transactions

in issue, the classification by the impugned order that appellant received transportation of goods by road service, is unsustainable. Accordingly, the

impugned order is quashed. The appeal is allowed. No costs.