

IMPORTANT GST UPDATES



Issued in case of M/s Bajaj Finance Ltd. by CESTAT, Mumbai
Final Order No. A/86171/2023 | Date: 07-08-2023

Ruling

No Service Tax Payable on Penal Interest and Cheque Bouncing Charges received by Bajaj Finance.

Observations & Findings

Bajaj Finance, a Non-Banking Financial Company (NBFC), provides various financial services such as auto loans, personal loans, and more. Their loan agreements stipulate repayment through cheques, electronic systems, or other methods on stipulated due dates. If customers delay payments, Bajaj Finance collects penal interest as additional interest. They also impose 'bounce charges' for dishonored cheques or electronic mandates, as per agreed terms.

The Department interpreted these charges as separate from loan amounts and considered them compensation for delays. They saw this as consideration for 'tolerating the act' of payment delays, thus subjecting it to service tax. Show cause proceedings were initiated for service tax recovery, resulting in a Commissioner's decision that deemed these activities as a 'Declared Service' under the Finance Act, subject to tax.

Bajaj Finance contended that they were under the bona fide belief that the penal interest collected by them was in the nature of additional interest on the loans and advances provided by them and that the same was exempt from payment of service tax. The appellants were also under the bona fide belief that bounce charges collected from their customers or borrowers were merely in the nature of penalties, liquidated damages, or compensation for the breach of the terms and conditions of the loan agreement. It was not eligible for service tax.

The CESTAT took into consideration all the observations and also relied on the judgement of CESTAT, Dehradun in M/s Rohan Motors v Commissioner of Central Excise, where it was established that Cheque bouncing charges are penal in nature and do not qualify as consideration for any service. It observed that the government had excluded interest on delayed payment from service tax liability as per clause (iv) under sub-rule 2 of Rule 6 of the Service Tax Rules, 2006, as stated in Notification No. 24/2012-S.T. dated June 06, 2012.

Considering the above, the Tribunal determined that penal interest and bouncing charges received by the Appellant as consideration for tolerating an act are not subject to service tax.