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Hiring employees of foreign holding/group companies on full-time employment basis cannot be taxed as ‘manpower supply service’

The Mumbai Tribunal has held in *Volkswagen India Pvt Ltd v CCE (2013-TIOL-1640-CESTAT-MUM)* that the arrangement for hiring employees of foreign holding or other group companies on full-time employment basis creates an employer-employee relationship between the appellant and the employees so hired.

Despite the fact that a portion of the salary of such employees is paid at their home location through the concerned holding/group company, it has been held that the reimbursement of such cost to the concerned foreign companies by the appellant could not be held liable to service tax under ‘manpower supply services’.

The Tribunal observed that the employees so hired were to work solely under the control and supervision of the appellant and the appellant had no recourse to the holding/group companies for the performance of, or any other administrative control over such employees.

The Tribunal has followed the Delhi Tribunal judgment in *Paramount Communication Ltd v CCE (2013-TIOL-37-CESTAT-DEL)* having similar facts.

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