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News Alert
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International in-bound roaming service – Export of services

A two member bench of the Tribunal, in *Vodafone Essar Cellular Ltd. v. CCE [2013-TIOL-566-CESTAT-MUM]* has held that when services are rendered to the third party at the behest of the customer, the third party cannot be held as the recipient of the services. The Tribunal, accordingly, held that since the customer (the recipient of services) is located outside India, irrespective of the fact that the third party is located in India, the services would qualify as export.

The Tribunal has principally relied upon the landmark judgment of the Tribunal in *Paul Merchants Ltd v. CCE [2012-TIOL-1877-CESTAT-DEL]* and reiterated the concept that ‘the customer’s customer cannot be your customer’.

The brief facts of case was that the Vodafone has been rendering international roaming services to the foreign telecommunication service (FTS) providers in

relation to their international roaming subscribers coming to India. The point in question was whether the “recipient” of the services provided by Vodafone is the FTS provider or the subscriber of the FTS provider visiting India on international roaming.

The Tribunal observed that the direct beneficiary of the services provided by Vodafone would be the FTS provider who would be billing their international roaming subscribers abroad and since the FTS provider is located outside India the services of Vodafone, subject to fulfilling other conditions relevant to export of services, would qualify as export.

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Our offices

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Ahmedabad President Plaza, 1st Floor Plot No 36 Opp Muktidham Derasar Thaltej Cross Road, SG Highway Ahmedabad, Gujarat 380054 Phone +91-79 3091 7000	Bangalore 6th Floor, Millenia Tower 'D' 1 & 2, Murphy Road, Ulsoor, Bangalore 560 008 Phone +91-80 4079 7000	Chennai 8th Floor, Prestige Palladium Bayan 129-140 Greams Road, Chennai 600 006, India	Hyderabad #8-2-293/82/A/113A Road no. 36, Jubilee Hills, Hyderabad 500 034, Andhra Pradesh Phone +91-40 6624 6600	Kolkata 56 & 57, Block DN. Ground Floor, A- Wing Sector - V, Salt Lake. Kolkata - 700 091, West Bengal, India Telephone: +91-033 - 2357 9101/4400 1111 Fax: (91) 033 - 2357 2754
Mumbai PwC House, Plot No. 18A, Guru Nanak Road - (Station Road), Bandra (West), Mumbai - 400 050 Phone +91-22 6689 1000	Gurgaon Building No. 10, Tower - C 17th & 18th Floor, DLF Cyber City, Gurgaon Haryana -122002 Phone : +91-124 330 6000	Pune GF-02, Tower C, Panchshil Tech Park, Don Bosco School Road, Yerwada, Pune - 411 006 Phone +91-20 4100 4444	For more information contact us at, pwctrs.knowledgemanagement@in.pwc.com	

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