

# Service Tax Refund cannot be denied on a ground that same was not shown as 'receivable' in Balance Sheet

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## A Case Study

Udyog Software (India) Ltd.

30/09/2014

**Radico Khaitan Ltd. vs. Commissioner of Service Tax  
Delhi [(2014) 48 taxmann.com 340 (New Delhi - CESTAT)]**

Radico Khaitan Ltd. (the **Appellant**) entered into an agreement with Diageo Radico Distilleries Pvt. Ltd. (DRDPL) for providing certain taxable services for which the consideration was paid in advance.

Accordingly, due Service tax was deposited by the Appellant. Later on DRDPL terminated the said service agreement with the Appellant and the services were not provided by the Appellant. Upon termination of the agreement, the Appellant returned the consideration along with Service tax received to DRDPL and accordingly filed claim for refund of Service tax so deposited along with all vouchers, ledger accounts and CA certificate certifying that advances received from DRDPL stands refunded.

However, the Commissioner (Appeals) rejected the refund claim by observing that refund was not shown as receivable in balance sheet and payment between the Appellant and DRDPL was only through book adjustment.

The Hon'ble CESTAT, Delhi observed that it was undisputed that:

- (a) Service tax was deposited by the Appellant in advance;
- (b) Services were actually not provided on account of cancellation of agreement; and
- (c) Entire consideration along with Service tax was refunded to customer.

Consequently, the Appellant was not required to pay any Service tax in respect of services, which were not provided. Hence, denial of refund on sole technical ground that same was not shown in balance sheet as receivable from revenue cannot be held to be just and fair.

Hence, refund was allowed.