

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.1

Service Tax Appeal No. 10483 of 2025

(Arising out of OIA No. VAD-EXCUS-001-APP-566-2024-25 dated 11.02.2025 passed by Commissioner (Appeals)-Vadodara)

Athakker Chiragkumar Rameshbhai

...Appellant

G-5, Suryavanshi Tower, Vallabh Vidhyanagar Road,
Anand, Gujarat-388001

VERSUS

Commr. Of CGST & Central Excise-Vadodara-I

...Respondent

Central GST Building, Race Course Circle,
Vadodara-Gujarat-390007

APPEARANCE:

Shri Mrugesh Pandya, Advocate appeared for the Appellant

Shri Sarjeet Kumar, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. 11414 /2025

DATE OF HEARING: 08.12.2025

DATE OF DECISION:08.12.2025

SOMESH ARORA

In this case the Commissioner (Appeals) has held that they (the appellants) were providing exempt service, they are not liable to pay tax, but he has still imposed penalties for having taken registration under Finance Act, 1994 and still not having filed "nil" returns under Section 70. Learned AR highlighted this aspect of taking registration and still not filing returns. Learned Advocate seeks to rely on the CBEC Circular No. 97/08/2007/ST dated 23.08.2007 clarifying that if services are not rendered, filing of return is not required. He also highlighted the decision of this Tribunal in Kolkata as reported in 2013 (30) STR 593 in the case of Suchak Marketing Private Limited, in which it was held that as per Rule 7C of the Service Tax Rules, 1994, discretion is available with the department to waive late fee in the event of default for filing nil returns. The appeal in that case was allowed by setting aside order. Para 5 of the decision is reproduced below:

"5. Heard the Id. AR for the Department and perused the records. Undisputedly, the appellants were registered with the Service Tax Department for providing taxable services. It is also not in dispute that during the period April 2005 to March 2008, they have not provided any service and also they have not filed any returns with the Department. They have filed six ST-3 Returns belatedly on 18-11-2008. I find that in view of the Board's Circular No. 97/8/2007-S.T., dated 23-8-2007, in the event, no service is rendered by the service provider, there is no requirement to file ST-3 Returns. The Id. AR could not produce anything contrary to the said

Circular. Besides, I find that as per Rule 7C of the Service Tax Rules, in the event, 'nil' returns are filed, the assessing officer had the discretion to waive the late fees for filing the ST-3 Returns. In my view, it is a fit case to invoke the proviso to Rule 7C and waive the late fees relating to the nil returns filed by the appellant during the period April, 2005 to March, 2008. A similar view has been held by this Tribunal in the case of *M/s. Amrapali Barter Pvt. Ltd. & M/s. Vijay Laxmi Promoters Pvt. Ltd. v. Commr. of Service Tax, Kolkata* bearing its Order No. A-879-880/Kol/2012 dated 14-12-2012. In these circumstances, the order of the Id. Commissioner (Appeals) is set aside and the appeal filed by the appellant is hereby allowed. Appeal is allowed."

Following the decision even this court is inclined to do away with the penalty imposed as discretion was available and was exercisable by the lower authorities. Therefore, the penalties to the extent imposed are set aside. Appeals are allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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