CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70519 of 2024

(Arising out of Order-in-Appeal No.GZB-EXCUS-000-APPL-MRT-82-22-23 dated 25.11.2022 passed by Commissioner (Appeals) CGST, Meerut)

M/s Manya IT Services (P) Ltd., ...Appellant
(Flat No.704, Block-A, 7th Floor, Exotica Eastern Court, Dundahera, Ghaziabad-201009)

VERSUS

Commissioner of Central Excise &
CGST, Ghaziabad ....Respondent
(Commissionerate, Ghaziabad)

APPEARANCE:

Shri Kartikeya Narain, Advocate for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.- 70651/2025

DATE OF HEARING : 02.07.2025
DATE OF PRONOUNCEMENT : 15.09.2025

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.GZB-EXCUS-000-APPL-MRT-82-22-23 dated 25.11.2022 passed by the Commissioner (Appeals), Customs, Central Excise & CGST, Meerut by which the appeal before him has been dismissed by confirming the demand of Rs.1,53,959/- and imposition of penalty of Rs.1,53,959/- under Section 78 of the Finance Act, 1994, has been upheld.

2. Briefly stated, the facts of the case are that the demand was raised on the basis of third party information, i.e. data revealed from ITR from Income Tax Department. On this basis, Show Cause Notice[1] dated 23.03.2021 was issued alleging that in the F.Y. 2015-16, the Appellant has shown income of

[1] SCN

Rs.16,40,426/- in the Income Tax Return[2] but no Service Tax has been paid on that. The SCN was adjudicated vide Order-in-Original No.25/AC/CGST/D-V/GZB/2021-22 dated 22.12.2021, by which the demand of Rs.1,53,959/- has been confirmed and penalty of Rs.1,53,959/- has been imposed under Section 78 of the Finance Act, 1994. On appeal before the First Appellate Authority, the Order-in-Original was upheld and the appeal was rejected. Hence, the present appeal before the Tribunal.

3. Shri Kartikeya Narain, ld. Counsel for the Appellant submitted that the Appellant during the period under dispute were providing Information Technology Software Services in India and Abroad. The gross receipts of the Appellant in F.Y. 2015-16 is Rs.16,40,426/-. The bifurcation of the total turnover is: Export of Services Rs.7,73,200/- and Domestic Turnover of services is Rs.8,67,200/-. It is his submission that the "Export of Services" is not liable to Service Tax and the turnover of Domestic Services is within the threshold of Rs.10 lakhs. So, it comes under the threshold limit as per Notification No.33/2012-ST dated 20.06.2012. Further, it was also submitted that the entire demand is barred by limitation. Appellant's Counsel relied upon the Judgement of the Hon'ble Supreme Court in the case of Tamilnadu Housing Board Vs. CCE – 1995 (74) E.L.T. 9 (SC) in support of his submissions.

4. The learned Departmental Authorized Representative justified the impugned order and prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

5. Heard both the sides and perused the appeal records.

6. I find from the FIRC, which was enclosed in the appeal paper book, that the Export of Services of the Appellant is Rs.7,47,887/- in F.Y. 2015-16 and the Balance sheet of Income Tax clearly shows that in F.Y. 2014-15 the total turnover was Rs.28,67,009.65 which is related to Export of Services. As per Notification No.33/2012-ST dated 20.06.2012, the Appellant fulfilled all the criteria to get the benefit of threshold limit.

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[2] ITR

7. Apart from the merits of the case, I also find that the demand is barred by limitation having been raised by invoking the longer period. The Revenue has picked up the figures from the ITR maintained by the assessee. The ITR has been held to be public documents by various decisions and it stands concluded that when the income arising from various activities stand reflected in the said public documents, it cannot be said that there was any suppression or misstatement on the part of the assessee so as to invoke the longer period of limitation. Reference can be made to Tribunal’s decision in the case of *C.S.T., New Delhi* vs. *Kamal Lalwani* [2017 (49) S.T.R. 552 (Tri. - Del.)], laying down that extended period is not invocable if services rendered are reflected in Balance Sheet and ITR and no evidence has been brought on record to establish that non-payment of duty was due to any *mala fide*. Reference can also be made to Hon’ble Allahabad High Court’s decision in the case of *Commissioner of Central Tax* vs. *Zee Media Corporation Ltd.* [2018 (18) G.S.T.L. 32 (All.)]. The Hon’ble High Court observed that the SCN itself shows that every detail was maintained by the assessee in usual course of business. The ingredients of proviso to Section 73(1) of the Finance Act, 1994, establishing any suppression of facts to evade payment of tax cannot be held to be present and invocation of extended period of limitation was not correct on the part of the Revenue.

8. In view of the above discussions, the impugned order cannot be sustained and is accordingly, set aside. The appeal filed by the Appellant is allowed with consequential relief, as per law.

(Order pronounced in open court on - **15.09.2025**)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

LKS