

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70656 of 2025

(Arising out of Order-in-Appeal No.61/ST/APPL/ALLD/2025 dated 19.03.2025 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad)

Shri Rajesh Rokadia,

.....Appellant

(D-59/143-A-2 Sant Raghuvar Nagar,
Sagra, Varanasi-221010)

VERSUS

**Commissioner of Central Excise &
CGST, Varanasi**

....Respondent

(Varanasi)

APPEARANCE:

Shri Atul Choudhary, Chartered Accountant for the Appellant
Smt. Chitra Srivastava, Authorized Representative for the Respondent

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

FINAL ORDER NO.- 70826/2025

DATE OF HEARING : 01.12.2025
DATE OF DECISION : 01.12.2025

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.61/ST/APPL/ALLD/2025 dated 19.03.2025 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad.

2. Briefly stated, the facts of the case in brief are that the Appellant is engaged in the business of wholesale trading and printing of sarees and dress materials on job work basis. The receipts appearing in Form-26AS is the consideration of job work services in relation to printing of sarees/fabrics. It is the case of the Appellant that these receipts are exempt from the purview of service tax vide Mega Notification No.25/2012-ST dated 20.06.2012. The job work receipts of Rs.46,02,707/- as appearing in Form-26AS relates to mainly from two parties i.e.

Rs.41,47,791/- from M/s Zinnia India and the balance Rs.4,54,916/- from M/s R.B. Industries. On the basis of third party data, as received from the Income Tax Department for the financial year 2016-17, the Department entertained a view that the total receipts as reflecting in Form-26AS are subject to levy of Service Tax and accordingly, letters were issued to the Appellant assessee to submit the necessary documents for the period from 2016-17 and 2017-18 (upto 30 June, 2017). A Show Cause Notice¹ dated 07.10.2021 was issued proposing to demand Service Tax of Rs.6,90,406/- @ 15% on the gross amount as reflected in Form-26AS. The SCN also proposed to impose penalties under various Sections. The Adjudicating Authority vide the Order-in-Original dated 06.03.2024 observed as under:-

*"I find that the services of job work related to printing of textile are exempted from payment of service tax as per the above provisions. Now, I take up the issue of nature of services provided by the party. I find that the party has submitted samples of copies of delivery challan/invoices raised by them in respect of services rendered to M/s Zinnia India, wherein particulars of service have been mentioned as **"For Job work"**. Further, the party has submitted a certificate issued by M/s Zinnia India wherein it has been certified that the total payment of Rs.41,47,791/- for the year 2016-17, was made to M/s Devraj Prints on account of job work related to printing of textile.*

In view of the above, I observe that the party has provided the service of "Job work related to printing of textile" to their client M/s Zinnia India and an amount of Rs.4147,791/- has been received by the party on account of the same for the financial year 2016-17. I find that the services provided by the party to M/s Zinnia India are covered under the S. No.30 (ii)(a) of the Notification No.25/2012-Service Tax dated 20th June 2012. Thus, the services rendered by the party enjoy the exemption

¹ SCN

contained under the said Notification during the relevant financial year 2016-17 and thus, the party are not liable to pay any service tax upon them.

With regard to remaining amount of Rs.4,54,916/-, the party has claimed that the same is also received on account of job work services related to printing of fabric provided to M/s R.B. Industries. But the party has failed to produce any documentary evidence in support of their claim. I find the party has submitted copies of few invoices related to M/s R.B. Industries. But, the nature of transaction is not mentioned therein. In absence of any documentary evidence, I am duty bound to disallow the exemption benefit claimed there upon the remaining amount of Rs.4,54,916/- received from M/s R.B. Industries. Therefore, I find that the party is liable to pay service tax on the said amount. Total service tax liability @ 15% comes to the tune of Rs.68,237/- (Rupees Sixty Eight thousand two hundred thirty seven only).

11. In view of the above, I find that the party had failed to discharge the service tax liability to the tune of Rs.68,237/- (Rupees sixty eight thousand two hundred thirty seven only) and thereby they have contravened the provisions of Section 68 of the Finance Act, 1994 inasmuch as they have not paid the due service tax in full. As the party has evaded the payment of above amount of service tax, they are also liable to payment of interest on the delayed payment of tax as per the provisions of Section 75 of the Finance Act, 1994 which, as it then stood, states –

“Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest at such rate not below ten percent. And not exceeding thirty-six percent. Per annum, as is for the time being fixed by the Central Government, by notification in the Official

Gazette, for the period by which such crediting of the tax or any part thereof is delayed.”

Accordingly pass the following order:-

ORDER

- (i) I restrict the demand of Service Tax (including Cess) amounting to Rs.68,237/- (Rupees sixty eight thousand two hundred thirty seven only) and order to recover the same from M/s Rajesh Rokadia, D-59/143-A-2, Sant Raghuvar Nagar, Sagra, Varanasi-221010 under proviso to sub section (1) of Section 73 of chapter V of the Finance Act, 1994 alongwith interest as applicable under Section 75 of the Act.*
- (ii) I impose a penalty of Rs.68,237/- (Rupees sixty eight thousand two hundred thirty seven only) upon them under Section 78 of the Act for suppressing the value of taxable service.*
- (iii) I impose a penalty of Rs.10,000/- (Rupees ten thousand only) upon them under Section 77(1)(a) of the Act for contravention of Section 69 of the Act read with the provisions of Rule 4 of the Service Tax Rules, 1994.*
- (iv) I impose a penalty of Rs.10,000/- (Rupees ten thousand only) upon them under Section 77(1)(c) of the Act for contravention of provisions of Rule 5A(2) of the Service Tax Rules, 1994.*
- (v) I impose a penalty of Rs.10,000/- (Rupees ten thousand only) upon them under Section 77(1)(c)(iii) of the Act for non compliance of summons issued to them.*
- (vi) I impose a penalty of Rs.10,000/- (Rupees ten thousand only) upon them under Section 77(2) of the Act for contravention of provisions of Section 70 of the Finance Act, 1994 read with Rule 7 of the Service Tax Rules in as much as they failed to correctly self-assess the due service tax.”*

3. Being aggrieved, the assessee filed appeal before the first Appellate Authority and the learned Commissioner (Appeals)

vide the impugned Order-in-Appeal, modified the Order-in-Original by setting aside the imposition of penalties under various provisions of Section 77. He however upheld the demand of Rs.68,237/- and penalty of equal amount under Section 78. The assessee still being aggrieved has preferred the present appeal before the Tribunal.

4. Learned Chartered Accountant appearing on behalf of the Appellant assessee vehemently argued that the nature of the entire receipts as reflected in Form-26AS is printing of sarees and other fabrics on job work basis and mainly from two parties. It is his submission that the majority amount of Rs.41,47,791/- from M/s Zinnia India has been accepted by both the Lower Authorities and the demand of Service Tax to that extent was dropped. However, in respect of receipts from M/s R.B. Industries, the certificate of confirmation from M/s R.B. Industries could not be submitted before the Adjudicating Authority, but it is his submission that the same was duly filed before the first Appellate Authority, however, it was not taken into cognizance by him.

5. 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.

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

7. I find that the entire proceedings were initiated on the basis of third party data received from the Income Tax Department and the gross amount as reflected in Form-26AS was taken as taxable value and Service Tax was proposed to be demanded on the same vide the issuance of SCN. The Adjudicating Authority on the basis of the documents submitted before him, accepted that the receipts are on account of job work related to printing of textile and also the certificate issued by M/s Zinnia India. However, in respect of M/s R.B. Industries, certificate was not filed before him and accordingly, Rs.4,54,916/- was taken as the taxable value and Service Tax of Rs.68,237/- was demanded and penalties under various Sections were imposed.

8. I find that M/s R.B. Industries have issued a certificate dated 20.03.2024 for Rs.4,54,916/- as under:-

R. B. INDUSTRIES		
<i>M/s & Exporters of Silk & Cotton Fancy Fabrics and Garments</i>		
D.59/45, A-1, Mahmooorganj Varanasi - 221010. India	GSTIN: 09AACFR7395F1ZT PAN : AACFR7395F IEC : 1588003558	E-mail: IndustriesRB@gmail.com Mobile: (91) 991 990 9111 Cell : (91) 983 924 3001 Tel : (91) 542-236 0910
TO WHOM SO EVER IT MAY CONCERN		
This is to inform that R. B. Industries is a fabric exporter established in Varanasi.		
Some of our fabrics are printed for which we have appointed M/s DevRaj Prints Varanasi as our job worker. We get printed mainly silk and cotton fabrics.		
The payment of the same Job Work is done after deducting TDS to M/s DevRaj Prints Varanasi through bank.		
In the same context the total job work done by M/s DevRaj Prints for the year 2016-17 was Rs: 454916/- which was paid after deducting the TDS.		
Date : 20-03-2024 Place: Varanasi	For R.B. Industries <i>Neha Agrawal</i> Partner	

9. I note that the Appellant has assailed the impugned order on merits as well as on limitation. The entire receipts as reflected in Form-26AS are on account of printing of textile / fabrics on job work basis and the majority of the demand was dropped on the basis of documents and certificate from M/s Zinnia India and since the certificate from M/s R.B. Industries

was not available at the time of making submission before the Adjudicating Authority, the amount was confirmed. I find that the certificate as issued by M/s R.B. Industries was also submitted before the first Appellate Authority, however, the same was not taken into cognizance. It is my considered view that once it has been held that the job work receipts on account of printing of textile / fabrics as received by the Appellant assessee are considered to be exempt under Sr. No.30(ii)(a) of Notification No.25/2012-ST dated 20.06.2012, there is no occasion to take a different view and the demand so confirmed cannot be sustained and is accordingly set aside. The penalty imposed under Section 78 is also set aside. The appeal filed by the Appellant is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in open court)

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

LKS