

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

REGIONAL BENCH - COURT No.II
(E-Hearing)

Service Tax Appeal No.70472 of 2023

(Arising out of Order-in-Appeal No.NOI-ST-000-APP-816-21-22 dated 22/12/2021 passed by Commissioner (Appeals) Central Goods & Services Tax, Noida)

M/s Arun Vihar Residents Welfare Association, ..Appellant

(C-106, KLJ Noida one, Sector-62, Noida-201309)
VERSUS

Commissioner of Central Excise &

Service Tax, Noida

....Respondent

(4th Floor, C-56/42, Renu Tower, Sector-62, Noida-201301)

APPEARANCE:

Shri Sashank Gupta, Chartered Accountant for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

**CORAM: HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

FINAL ORDER NO.70845/2025

DATE OF HEARING : 16 October, 2025
DATE OF PRONOUNCEMENT : 04 December, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order in Appeal No.NOI-ST-000-APP-816-21-22 dated 22.12.2021 of the Commissioner (Appeal) CGST & Customs, Noida. By the impugned order following has been held:

"11. In view of the above discussion and findings I partially allow appeal of the party in terms of my discussion at para 9.3.1 to 9.4.2. Rest of demand confirmed sustains, except for head 'Misc Income'. The matter is remanded for ascertainment of service tax liability taking into consideration the findings at paras 9.5.1 to 9.6.2. The adjudicating authority will examine the

entries under the head of Misc Income with respect to clearing charges, Display income etc., and pass a speaking order after giving an opportunity to the appellant to represent their case. The appellant should co-operate with the adjudicating authority and provide the documents on which they are relying upon. Interest and Penalty will be determined in accordance with service tax liability confirmed."

2.1 Appellant having their registered office at Near Lal Market Kalyan Kendra, Sector 37 were engaged in providing various taxable services in terms of Section 65 B (44) read with Section 66B of the Finance Act, 1994. They were neither registered with the department nor were they paying any service tax.

2.2 Acting on intelligence enquiries were initiated against them and they were vide letter dated 10.09.2018 and reminder dated 15.10.2018 were asked to provide copies of their financial records such as Balance Sheet, Form 26AS, Ledgers of income & details of payment of service tax et., up to June 2017. As appellant did not respond, a summon dated 15.11.2018 was issued to them.

2.3 Appellant through their Chartered Accountant, Shri Praveen Singhal in response to the summon issued, vide their letter dated 12.11.2018 stated as follows:

- They do not have any service tax registration and were not paying service tax.
- They are providing the copies of their balance sheet & Form 26AS up to 2016-17.

2.4 Appellant was vide letters dated 5.12.2018 and subsequent reminders dated 25.02.2019, 24.04.2019 and 22.05.2019 were asked to furnish the remaining documents. They vide their letter dated 13.05.2019 and 06.06.2019 (received on 24.01.2020) provided year wise ledger accounts of income heads upto the period June 2017.

2.5 After taking into account the submissions made and after scrutiny of the documents, department was of the view that appellant has short paid service tax as detailed in table below:

| Financial Year | Head of Income | | | | | Total | Service Tax | |
|----------------|----------------|-----------------|---------|--------|---------------|----------|-------------|---------|
| | Advertisement | Membership Fees | Rent | Misc. | Transfer Fees | | Rate % | Payable |
| 14-15* | 0 | 800000 | 633500 | 79546 | 1475000 | 2988046 | 12.36 | 369322 |
| 15-16 | 212000 | 2470000 | 1170000 | 84317 | 4448750 | 8385067 | 14.5 | 1215835 |
| 16-17 | 501100 | 2200000 | 1170000 | 170606 | 3470000 | 7511706 | 15.0 | 1126756 |
| 17-18** | 121300 | 500000 | 316500 | 10992 | 1016000 | 1964792 | 15.0 | 294719 |
| Total | 834400 | 5970000 | 3290000 | 345461 | 10409750 | 20849611 | | 3006632 |

*Oct 14 to Mar 15

**Upto June 17

2.8 It was also evident that appellant had not taken service tax registration and had not filed any service tax return by the due date, thus late fee as detailed in table below was also payable by them.

| Financial Year | Period | Due date | Actual Date | Late Fees |
|----------------|---------------|------------|-------------|-----------|
| 14-15 | Oct 14-Mar 15 | 25.04.2015 | Not filed | 20000 |
| 15-16 | Apr 15-Sep 16 | 25.10.2015 | | 20000 |
| | Oct 15-Mar 16 | 29.04.2016 | | 20000 |
| 16-17 | Apr 16-Sep 16 | 25.10.2016 | | 20000 |
| | Oct 16-Mar 17 | 30.04.2017 | | 20000 |
| 17-18 | Apr 17-Jun 17 | 15.08.2017 | | 20000 |
| | | | | 120000 |

2.7 A show cause notice dated 06.03.2020 was issued to the appellant asking them to show cause as to why:

- (i) Service Tax amounting to Rs.30,06,632/- (Rupees Thirty Lakhs Six Thousand Six Hundred and Thirty Two Only) not paid during the period 2014-15 (October-2014 to March-2015) to 2017-18 (upto June-2017) inclusive of Education Cess, SHE Cess, KKC & SBC for rendering taxable services should not be demanded and recovered from them in terms of the proviso to Section 73(1) as amended, of the Finance Act, 1994 read with Section 174 of the Central Goods & Services Act, 2017;

- (ii) Interest at appropriate rate, wherever applicable for delayed payments, should not be demanded and recovered from them under Section 75 of the Finance Act, 1994 read with Section 174 of the Central Goods & Services Act, 2017, on the Service Tax payable by them as per para I l(a) above;
- (iii) Late fee of Rs.1,20,000/- for the period 2014-15 (October-2014 to March-2015) to 2017-18 (upto June-2017) should not be demanded and recovered from them under Section 70 of the Finance Act, 1994 read with Rule 7 &7(C) of the Service Tax Rules, 1994 and the Section 174 of the Central Goods & Services Act, 2017 and for each default in furnishing of ST-3 Returns on or before due date as prescribed in Rule 7(2) of the Service Tax Rules, 1994;
- (iv) Penalty should not be imposed on them under Section 78 of the Finance Act, 1994, as amended read with Section 174 of the Central Goods & Services Act, 2017 for suppressing the facts from the department by concealing taxable value with malafide intention to evade payment of service tax.

2.8 The show cause notice was adjudicated as per order in original 14/AC/CGST/Div-I/NOIDA/2019-20 dated 05.03.2021 holding as follows:

“ORDER

- (i) *I confirm the demand of Service Tax amounting to Rs. 30,06,632/- (Rupees Thirty Lakhs Six O Thousand Six Hundred Thirty Two only) including cess under proviso to Section 73 (1) of the Finance Act. 1994 as amended. read with Section 174 of CGST Act 2017*
- (ii) *I confirm the demand of interest at applicable rate of interest on the service tax amount of Rs. (i) 30,06,632/- under Section 75 of the Finance Act, 1994 read with Section 174 of CGST Act 2017..*

- (iii) *I also impose a penalty of Rs.1,20,000/- (Rupees One Lakh Twenty Thousands only) upon the party under Section 70 of the Finance Act,1994 read with Rule 7 & 7(c) of the Service Tax Rules, 1994 for default in furnishing of ST-3 returns on or before due date as prescribed in Rule 7(2) of the Service Tax Rules. 1994 read with Section 174 of CGST Act 2017.*
- (iv) *I impose a penalty of Rs. 30,06.632/- (Rupees Thirty Lakhs Six Thousand Six Hundred Thirty Two only) upon the party under Section 78 of the Finance Act, 1994, for contravention of the various provisions of Finance Act, 1994 and the rules made thereunder read with Section 174 of CGST Act 2017.*

All the dues adjudged above shall be paid by the party forth with.”

2.9 Aggrieved appellants filed appeal before Commissioner (Appeal) which has been disposed off as per the impugned order.

2.10. Aggrieved appellant have filed this appeal.

3.1 We have heard Shri Shashank Gupta Chartered Accountant for the appellant and Shri Santosh Kumar, Authorized Representative for the revenue.

3.2 Arguing for the appellant learned Chartered Accountant submitted that the demand is barred by limitation and extended period could not have been invoked for making this demand. He relied on following decisions.

- Sagar Road Lines [Final Order No 70188/2024 dtd 22.04.2024]
- Chunar Cement Factory [Final Order No. 70251/2024 dtd 9.05. 2024]
- Chunar Cement Factory [Final Order No. 70819/2024 dtd 11.12.2024]

- Devendra Pratap Singh (CESTAT Allahabad Bench Order on Limitation/ Suppression -2024)
- J. M. Manpower & Security Pvt. Ltd. (CESTAT Allahabad Bench Order-2024)
- Patanjali Yogpeeth Trust (CESTAT Allahabad Bench Order - October 2023)
- Johnson Matthey Chemicals India Pvt. Ltd. (CESTAT Allahabad Bench Order -2023)
- LG Electronics India Pvt. Ltd. (CESTAT Allahabad Bench Order -26 July 2025)

3.3 Authorized representative reiterated the findings recorded in the impugned order.

4.1 We have considered the impugned order along with the submissions made in the appeal and during the course of arguments.

4.2 On the issue of limitation impugned order records as follows:-

"9.2.1 Now coming to the core of the issue I find that the main-stay the appellant is that the demand is hit by the bar of time as the extended period of time is not liable to be invoked in the instant case as the 'proceeds were recorded in their books of account and the mistake was a bona fide mistake. In this regard, I find that it is a undisputed fact that the appellant was providing the taxable services and was receiving consideration against the same. It was the responsibility of the appellant to get themselves registered and pay due Service tax on such receipts. However, the appellant choose not to get themselves registered and pay due Service tax, The appellant is a society of ex-servicemen who are well aware of the law and procedure and was having counsellor help also. The ignorance of law of land is no excuse. The averments of the appellant lack any substance and appear to have been made just for the sake of arguments of

9.2.2 *The appellant has also cited some case laws in their favor. I find that in the facts and circumstances of the instant case the same are not attracted in the instant case as the ratio of the judgments can be distinguished. In Blackstone Polymers vs. CCE Jaipur II(2014(301)ELT657 the subject matter was under valuation of the goods being supplied to a related person from whom the party has received substantial amount as advances. In this case the party was registered with the department and was duly recording the facts in their financial records. In Padmini Products the dutiability of goods were in doubt because of Trade notices and in such a situation it was held that when there was scope for doubt that goods were not dutiable - Scope of fraud, collusion, wilful mis- statement or suppression of facts or contravention of rules with intent to evade duty cannot be alleged.*

9.2.3 *Similarly, in DCM Textile case it was held that since the party has already took registration and paid the duty hence the penalty under section 78 is not liable to be imposed. In Martin & Harris Laboratories Tribunal held that the discrepancy between production figures in RT-12 returns and balance sheet prepared in head office resolved by assessee No other evidence existing either of clandestine removal of goods excess receipt of inputs - HELD : Balance sheet could not be taken as a sacrosanct document to prove clandestine removal. Juxtaposition to the above cited judgments in the instant case the facts are clearly different and can easily be distinguished. In the instant case there was no confusion regarding the fact that the services being offered are amenable to Service tax and the appellant has neither taken Registration nor paid the due Service tax thereon. There was no bona fide in the conduct of the appellant and there was not even an iota of doubt about the taxability of the services, therefore I hold that the extended period of demand has rightly been*

invoked against the appellant in the instant case by the adjudicating authority."

4.3 We find that appellant in his submissions has just placed on record certain decisions of this bench even without stating the facts and showing how these decision are applicable in their case. Such blind reliance on some decisions without showing their applicability to facts in hand do not help the case of the appellant. In case of State of Orissa vs. Md Illiyas [2006 (1) SCC 275] Hon'ble Supreme Court has observed as follows:

"11. At this juncture it is desirable to consider the true, import of the word 'wilful'. An act is said to be 'wilful' if it is intentional, conscious and deliberate. (See : Rakapalli Raja Rama Gopala Rao v. Naragani Govinda Sehararao (1989 (4) SCC 255).

The expression 'Wilful' excludes casual, accidental, bona fide or unintentional acts or genuine inability. It is to be noted that a wilful act does not encompass accidental, involuntary, or negligence. It must be intentional, deliberate, calculated and conscious with full knowledge of legal consequences flowing therefrom. The expression 'wilful' means an act done with a bad purpose, with an evil motive.

"Wilful" is a word of familiar use in every branch of law, and although in some branches of law it may have a special meaning, it generally, as used in courts of law, implies nothing blameable, but merely that the person of whose action or default the expression is used is a free agent, and that what has been done arises from the spontaneous action of his will. It amounts to nothing more than this, that he knows what he is doing, and intends to do what he is doing, and is a free agent. (Per Bowen L.J. in Re Young and Harston 31 Ch. D. 174). It does not necessarily, connote blame, although the word is more commonly used of bad conduct than of good.

(See Wheeler v. New Merion Board Mills (1933) 2 K.B. 669). Whatever is intentional is wilful. (per Day J. in Gayford v. Chouler (1898) 1 Q.B. 316). As observed by Russel C.J. in R. v.

Senior (1899) 1 Q.B. 283, "wilfully" means deliberately and intentionally.

12 When the allegation is of cheating or deceiving, whether the alleged act is wilful or not depends upon the circumstances of the concerned case and there cannot be any strait jacket formula. The High Court unfortunately did not discuss the factual aspects and by merely placing reliance on earlier decision of the Court held that pre-requisite conditions were absent. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar

Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides."

4.4 In case of Manoj Bhahdur Singh [2006 (1) SCC 368] Hon'ble Supreme Court has observed as follows:

Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed:

"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying

the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said:

"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

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"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

4.5 A Constitution Bench of Hon'ble Supreme Court in case Padma Sundara Rao (Dead) & Ors., v. State of Tamil Nadu & others reported in (2002) 3 SCC 533, has opined as follows:-

"9. Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington V. British Railways Board - (1972) AC 877. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

4.6 In case of Bihar School Examination Board vs Suresh Prasad Sinha [2009 (8) SCC 483] Hon'ble Supreme Court referred to many of the past precedence and observed as follows:-

"14. The courts should guard against the danger of mechanical application of an observation without ascertaining the context in which it was made. In C.I.T vs. Sun Engg. Works (P) Ltd. - 1992(4) SCC 363 (vide para 39) this Court observed :

"It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment

have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered and while applying the decision to a later case, the courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this Court, to support their reasonings."

It is also necessary to keep in mind the following principles laid down in Government of Karnataka & Ors. vs. Gowramma & Ors. (AIR 2008 SC 863) with reference to precedential value of decisions:

"Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio precedent. According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various

observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in an Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.

Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

The following words of Lord Denning in the matter of applying precedents have become locus classicus:

Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases. One should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.

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Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it." (emphasis supplied)

15. In *Sarva Shramik Sanghatana (K.V), Mumbai vs. State of Maharashtra & Ors. - AIR 2008 SC 946*, this Court cited the following passage from *Quinn v. Leathem [1901 AC 495]* with approval :

"Now before discussing the case of Allen v. Flood (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition

that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

16. *In Bhavnagar University vs. Palitana Sugar Mills Pvt. Ltd - (2003) 2 SCC 111 (vide paragraph 59), this Court observed :*

"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

17. *As held in Bharat Petroleum Corporation Ltd. & another vs. N.R.Vairamani & another - (AIR 2004 SC 4778), a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed:-*

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid`s theorems nor as provisions of the statute and that too taken out of the context. These observations must be read in the context in which they appear to have been stated."

(emphasis supplied)

18. *We have referred to the aforesaid decisions and the principles laid down therein, because often decisions are cited for a proposition without reading the facts of the case and the reasoning contained therein."*

4.7 Impugned order clearly distinguishes the decisions that appellant relied in the appellate proceedings before the Commissioner (Appellate). In the present proceedings appellant have not stated that, the findings recorded in the impugned order on issue of limitation are erroneous, Commissioner (Appeal) has wrongly distinguished the decisions quoted by

them. On the other hand they have relied upon another set of decisions to buttress their claim, without showing the applicability of these decisions to the fact of case in hand. This approach, which is contrary to the decisions of Hon'ble Supreme Court, needs to be shunned.

4.8 We find that appellant has not challenged the impugned order stating any other ground.

5.1 Appeal is dismissed.

(Order pronounced in open court on-04 December, 2025)

(P. DINESHA)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)