CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70417 of 2025

(Arising out of Order-In-Appeal No.54-ST-ALLD-2024, dated -22/01/2024 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

Shri Asad Husain, **.....Appellant**
(Prop: M/s Industrial Security Solutions
Shop No-3 Aysha Masjid, Ganga Vihar
Kanpur Nagar, Uttar Pradesh 208010)

VERSUS

Commissioner, CGST & Central Excise, Kanpur

....Respondent

(117/7, Sarvodya Nagar,
Kanpur Nagar, Uttar Pradesh 208005)

APPEARANCE:

Ms. Vedika Nath, Advocate and
Ms. Yashonidhi Shukla, Advocate for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

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

FINAL ORDER NO.-70039/2026

DATE OF HEARING : 17.02.2026
DATE OF DECISION : 17.02.2026

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-In-Appeal No. 54-ST-ALLD-2024, dated -22/01/2024 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad who has upheld the Order-In-Original dated 27.03.2023.

2. The facts of the case in brief are that the Appellant is the proprietor of M/s Industrial Security Solutions and has been

providing services such as 'Supply of Security' and 'Manpower Supply Service'.

3. The Show Cause Notice[1] dated 22.10.2021 was issued on the basis of third party information for the Financial Year 2016-17 asking him to show cause as to why:-

(i) The Service Tax amounting to Rs. 3,65,607/- (Rupees Three Lakh Sixty Five Thousand Six Hundred & Seven only) including Krishi Kalyan cess as applicable should not be demanded and recovered from them under proviso to Section 73(1) of the Act, 1994 read with 174 of CGST Act, 2017.

(ii) The due interest on the amount of Service Tax mentioned at (i) above should not be demanded and recovered from them under Section 75 of the Finance Act, 1994 read with Section 174 of CGST Act, 2017.

(iii) Penalty should not be imposed upon them under Section 78 of the Finance Act 1994 read with Section 174 of CGST Act, 2017 for failure to pay service tax & suppressing the value of taxable service with intent to evade payment of service tax.

(iv) Penalty should not be imposed upon them under Section 77(1)(c) of the Finance Act, 1994 read with Section 174 of CGST Act, 2017 for not furnishing information/documents called by the Superintendent, CGST & Central Excise, Range-XIII, Division-II, Kanpur in response to the letters issued to them.

4. The SCN proposed to demand Service Tax as under:-

Financial Year	Value of Sale of Services as	Gross amount	Differential gross taxable value of	Service tax rate	Payable Service tax inclusive of

[1] SCN

	per ITR	shown in ST-3 return	services i.e. difference in the value of ITR and STR	inclusive of cess	cess, on the differential amount of Col (4)
(1)	(2)	(3)	(4) =(2)-(3)	(5)	(6)
2016-17	28,85,214/-	4,47,831/-	24,37,383/-	15%*	3,65,607/-

Note* - During the financial year 2016-17 the rate of Service Tax was 14%. Further, during the period 1" April 2016 to 31 March, 2017 Swachch Bharat Cess @ 0.5% was applicable. From 01 June, 2016 to 31st March of 2017, in addition to SBC, Krishi Kalyan Cess @ 0.5% was also leviable. In absence of segregated data the KKC has been taken into consideration for the entire financial year 2016-17.

5. Vide the Order-In-Original dated 27.03.2023 following order has been passed:-

ORDER

(i) I confirm the demand of service tax to Rs.3,65,607/- (Rupees Three Lakh Sixty Five Thousand Six Hundred Seven only) including Cess under proviso to Section 73(1) of the Finance Act, 1994 read with Section 174(2) of CGST Act, 2017.

(ii) I order for recovery of interest at appropriate rate from them under Section 75 of the Finance Act, 1994 read with Section 174 of CGST Act, 2017.

(iii) I impose a penalty of Rs.3,65,607/-(Rupees Three Lakh Sixty Five Thousand Six Hundred Seven only)) under Section 78 of the Finance Act 1994 read with Section 174 of CGST Act, 2017 for the reasons discussed above.

(iv) I impose a penalty of Rs. 10,000/- under Section 77(1)(c) of the Finance Act, 1994; read with Section 174 of CGST Act, 2017 for violation of various provisions as discussed above.

6. On appeal before the First Appellate Authority, the Order-In-Original was upheld. Hence, the present appeal before the Tribunal.

7. The learned Advocate appearing on behalf of the Appellant submitted that the demand cannot be raised only on the basis of Income Tax Returns without properly ascertaining the reason behind the mismatch in the figures reflected in the income tax Return and the Service Tax Return. Reliance in this regard is placed on the order of the Tribunal in the case of Kush Constructions v. CGST NACIN, ZTI, Kanpur, 2019 (24) GS.T.L. 606 (Tri.-All.), wherein it was held that difference in figures reflected in ST-3 Returns and Form 26AS Statement under Income-tax Act, 1961 cannot be the basis for raising Service Tax demand without examining the reasons for such difference and without examining whether amount as reflected in said Income Tax Return/Form 26AS statement was the consideration for providing any taxable services or the difference was due to any exemption or abatement.

8. She further submitted that the extended period of limitation in the present case has been invoked and suppression has been alleged merely on the basis of ITR. Without there being any adverse material on record and without examining the books of accounts, the invocation of extended period of limitation on the basis of ITR is wholly without jurisdiction. Reliance in this regard is placed on Pappu Crane Service v. Commissioner, 2019 SCC Online CESTAT 4676.

Thus, the demand of service tax in the present case is not sustainable in law and therefore, there is no question of demand of interest or penalty on such demand.

In view of the aforesaid submissions, she prayed that the impugned order is liable to be set-aside.

9. Learned Departmental Representative has justified the impugned order and prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

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

11. I find that the learned Advocate has submitted Affidavits from the corporate clients/service recipients stating as under:-

> *"2. That during the Financial Year 2016-17, our company had received taxable services from M/s Industrial Security Solutions.*
>
> *3. That as reflected in Form 26AS for FY 2016-17 total payments made by our company towards the said services amounted to Rs. 2,21,202/-.*
>
> *4. That the services received fall within the definition of "taxable service" as defined under Section 658(44) of the Finance Act, 1994.*
>
> *5. That in terms of Section 68(2) of the Finance Act, 1994 read with Notification No. 30/2012-Service Tax dated 20.06.2012 (as amended from time to time), the liability to discharge Service Tax under Reverse Charge Mechanism was upon the service recipient i.e., our company.*
>
> *6. That no Service Tax liability remains outstanding in respect of the aforesaid transactions."*

12. She further submits that services were also provided to non-corporate entities and has submitted reconciliation statement which is reproduced below:-

S.NO.		PARTICULARS	AMOUNT
		VALUE OF SALES OF SERVICES IN ITR	28,85,214.00
	LESS		
		GROSS AMOUNT SHOWN IN ST-3 RETURN	4,47,831.00
		DIFFERENTIAL TAXABLE VALUE OF SERVICES	24,37,383.00
	LESS :	SERVICE TAX DISCHARGED SEC 68(2)	
		UNDER REVERSE CHARGE MECHANISM	
		SUPER TANNERY LIMITED	-11,17,969.00
		SUPER SHOES LTD	-1,53,390.00
		ABDULLAH TANNERY PRIVATE LIMITED	-5,25,891.00
		AARFI TANNERS PRIVATE LIMITED	-2,21,202.00
		ALLIED LEATHER FINISHERS PVT LTD	-1,17,261.00
		VALUE OF TAXABLE LEFT UNRECONCILED	3,01,670.00
		CIN :2023022116022652631 4 DTD 21/02/2023	
		AMOUNT 16,621.00	-1,10,806.67
		CIN: C2N290723000051013 DTD 29/07/2023	
		AMOUNT : 10,800.00	-72,000.00
		CIN : C2N110524000128400 DTD 11/05/2024	

		AMOUNT: 10251.00	-68,340.00
AMOUNT OF SERVICE UNRECONCILED			**50,523.33**

13. On going though the above reconciliation statement, I find that the Appellant-Assessee has paid the applicable Service Tax on the amount received from the non-corporate entities and since reverse charge mechanism is not applicable in these cases, the liability of Service Tax has been discharged. However, reconciliation statement shows some discrepancies as some amount is shown as un-reconciled and accordingly, the Appellant is directed to calculate the Service Tax payable on the un-reconciled amount and deposit the same under intimation to the Department.

14. The demand of Service Tax of Rs.3,65,607/- is modified to Rs.7,578/-.

15. Further, I do not find any ingredient of suppression, willful misstatement etc. with an intent to evade payment of Service Tax, and accordingly, the penalty imposed under Section 78 of the Finance Act, 1994 is set aside. The penalty imposed under Section 77(1)(c) of the Finance Act, 1994 is also set aside.

16. The appeal filed by the Appellant is partly allowed in the above terms.

(Operative part of the order is pronounced in open court)

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

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