CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70147 of 2023

(Arising out of Order-In-Appeal No. GZB-EXCUS-000-APPL-MRT-94-2022-23, dated : 30.12.2022 passed by Commissioner (Appeals) CGST, Meerut)

M/s Lomesh Kumar (DAPL) .....Appellant
(KA-41, Karpuri Puram, Govind Puram, Ghaziabad-201013)

VERSUS

Commissioner, CGST, Ghaziabad ....Respondent
(202, Wing A, C.G.O. Complex-II
Ghaziabad, Uttar Pradesh 201002)

APPEARANCE:

Shri Rajesh Chhibber, Advocate for the Appellant
Shri A. K. Choudhary, Authorized Representative for the Respondent

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

FINAL ORDER NO.-70072/2026

DATE OF HEARING : 09.03.2026
DATE OF DECISION : 13.03.2026

P. ANJNI KUMAR:

The Appellants filed this appeal against the Order-In-Appeal dated 30.12.2022 passed by the learned Commissioner (Appeals), CGST, Meerut.

2. Brief facts of the case are that the Appellant is a firm engaged in providing workers to Government Authorities in relation to construction of roads; though the Appellant were registered with the Service Tax Department, they did not discharge the applicable Service Tax on the works they have provided under the opinion that the same was not taxable; they have surrendered the license in 2015. On the basis of the data obtained from the Income Tax Department and Form 26AS statement, Revenue came to a conclusion that during the years

2015-16 and 2016-17, the Appellants have rendered taxable services and have not paid the applicable Service Tax. A Show Cause Notice dated 24.05.2021 was issued to the Appellants demanding Service Tax of Rs.70,27,116/- alongwith interest and penalties. The proposals in the Show Cause Notice were confirmed by the Order-In-Original dated 29.11.2021 and were upheld by the impugned Order-In-Appeal.

3. Shri Rajesh Chhibber, Advocate, learned Counsel for the Appellants submits that the issue is no longer *res integra* having been decided by this very Bench vide Final Order No.70870 of 2024 dated 24.09.2024 for the period 2014-15; however, the present Show Cause Notice is on identical facts and extended period has been invoked in the second Show Cause Notice in violation of the law settled by the Hon'ble Supreme Court in the case of **Nizam Sugar Factory V/s Collector of Central Excise, A.P. reported at 2006 (197) E.L.T. 465 (S.C.)**.

4. He further submitted that the earlier decision of the Tribunal was on the basis of the fact that the Appellant have rendered services in relation to construction of roads to Governmental Authorities and evidence in the form of Certificate issued by the customers of service was produced by the Appellants.

5. Learned Counsel further submits that the issue in the impugned case is not different from the one decided by this Bench while cited above; in this case also the Appellant rendered services to the very same customers in relation to construction of roads.

6. Shri A. K. Choudhary learned Departmental Representative reiterates the finding of the impugned order.

7. Heard both sides and perused the records of the case.

8. We find that the Appellants have rendered services to Governmental Authorities like Uttar Pradesh Public Works

Department as is indicated by the documents and the facts is not denied by the Revenue.

9. We find that this Bench vide Final Order cited above held as follows:-

4.6 In view of the facts that these activities are in respect of road work etc. which are exempted by Notification No.25/2012 at Sl. No.12 reproduced bellow:-

"12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

(d) canal, dam or other irrigation works;

(e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;"

4.7 As the entire amount against which demands have been made is in respect of exempted services provided to

> *Government Authorities in respect of construction, repair and maintenance of road etc, we do not find any merits in this demand and in the impugned order and set aside the same."*

10. We find that in the impugned case also facts are identical. Moreover the case has been made on the basis of third party data without ascertaining the type of service rendered, the consideration received etc. Further, the impugned proceedings are vitiated by the fact that extended period have been invoked in the subsequent Show Cause Notice.

11. With the above reasons the impugned Show Cause Notice is liable to be set aside on limitation also.

12. In view of the above, the appeal is allowed.

(Pronounced in open court on 13.03.2026)

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

Sd/-
(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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