CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.II

(E-HEARING)

Service Tax Appeal No.70044 of 2026

(Arising out of Order-in-Appeal No. 234-ST-APPL-LKO-2025, dated - 10/07/2025 passed by Commissioner (Appeals) CGST & Central Excise, Lucknow)

M/s Wealth Mantra Commodities Pvt. Ltd. .....Appellant
(403, 4th Floor Shalimar Titanium , Vibhuti Khand,
Gomti Nagar, Lucknow, Uttar Pradesh 226010)

VERSUS

Commissioner, CGST & Central Excise, Lucknow
....Respondent
(Apratyaksh Kar Bhawan, 3rd Floor, B-Block,Vibhuti Khand,
Gomti Nagar, Lucknow, Uttar Pradesh 226001)

APPEARANCE:

Shri Arun Srivastava, Advocate for the Appellant
Mrs. Chitra Srivastava, Authorized Representative for the Respondent

CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.-70079/2026

DATE OF HEARING : 26.02.2026
DATE OF DECISION : 19.03.2026

SANJIV SRIVASTAVA:

This appeal is directed against the Order-In-Appeal No. 234-ST-APPL-LKO-2025, dated 10.07.2025 passed by Commissioner (Appeals) CGST & Central Excise, Lucknow. By the impugned order Commissioner (Appeals) has upheld the Order-In-Original No.266AC/CGST/LKO-I/WMCPL/2023-24 holding as follows:-

ORDER

(i) I confirm the demand of service tax amounting to Rs. 6,18,861/- under Section 73 of the Finance Act, 1994 read with Section 142 and 174 of the CGST Act, 2017.

(ii) I confirm the demand of interest on the amount of Service Tax mentioned at (i) above under Section 75 of the Finance Act, 1994 read with Section 142, 173 & 174 of the CGST Act, 2017.

(iii) I impose Penalty amounting to Rs. 6,18,861/- under Section 78 of the Finance Act 1994 read with Section 142, Section 173 & Section 174 of the CGST Act, 2017.

(iv) I impose Penalty amounting to Rs. 10,000/- under Section 77(1)(d) of the Finance Act, 1994 read with Section 142, Section 173 & Section 174 of the CGST Act, 2017.

(v) I confirm the demand of Late fees under Rule 7C of the Rules read with Section 70 of the Act read with Section 142 and 174 of CGST Act for not furnishing the Service Tax return within due date of filing of returms.

(vi) I impose Penalty amounting to Rs. 10,000/- under Section 77(1)(c)(i) and 77(1)(c)(ii) of the Finance Act, 1994 read with Section 142, Section 173 & Section 174 of the CGST Act, 2017 for not providing the documents when asked by the investigating Officer.

(vii) I impose Penalty amounting to Rs. 10,000/- under Section 77(1)(c)(iii) of the Finance Act, 1994 read with Section 142, Section 173 & Section 174 of the CGST Act, 2017 for not complying with the summons.

(viii) I confirm the demand of inadmissible Cenvat Credit to the tune of Rs.4,74,374/- under Rule 14 of CENVAT Credit Rules, 2004 read with Section 73 of the Finance Act, 1994.

2.1 The Appellant during the period in dispute was registered with the Service Tax Department having Service Tax Registration No.AAHCS7515ESD003 and was engaged in providing taxable services under the category of "Business Auxiliary Services, Services provided by recognized/registered associations in relation to forward contracts, Security/detective agency service, Business support service, Works contract service and other taxable services" as defined in the erstwhile Finance Act, 1994.

2.2 On the intelligence received that M/s Wealth Mantra Infracon Pvt. Ltd, 403, 4th Floor, Shalimar Titanium, Vibhuti Khand, Gomti Nagar, Lucknow was not paying Service Tax commensurate to various services provided by them and were showing 'NIL' revenue from the operations in their balance sheet for the year 2014-15 & 2015-16 whereas they had collected and paid taxes as shown in their Service Tax Returns during the said Financial Year.

2.3 A search was conducted on 13.07.2018 at the premises of the said entity. During the scrutiny of records resumed at the time of search it was found that the said entity namely M/s Wealth Mantra Infracon Pvt. Ltd. has subsidiaries, associates and jointly controlled companies, where under some companies where found engaged in similar line of business and others engaged in different businesses. One of such subsidiary company was the Appellant who was engaged in providing taxable services.

2.4 During the search on the said date records pertaining to the Appellant were also found and resumed from the said premises. Statement of Shri Phool Chandra Yadav, Sr. Executive of M/s Wealth Mantra Infracon Pvt. Ltd. was recorded on 13.07.2018 wherein he submitted as follows:-

(1) Shri Sanjeev Agarwal is the Director of M/s. Wealth Mantra Commodities Private Limited, Lucknow.

(ii) The premises of M/s. Wealth Mantra Commodities Private Limited, Lucknow 403, 4th Floor, Shalimar Titanium, Vibhuti Khand, Gomti Nagar, Lucknow, the place visited by the officers, is the office of the Wealth Mantra Group where different persons supervise the work of different companies of this Group.

2.5 Letters dated 17.03.2020, 13.07.2020, 22.07.2020 and summon dated 29.07.2020, 25.09.2020 & 19.10.2020 were issued to the Appellant for submitting following documents:-

(i) Trial Balance for the period 01.04.2017 to 30.06.2017

(ii) 26AS for the F.Y. 2016-17 to 2017-18.

(iii) Service Tax returns filed by you during the F.Y. 2016-17 to 2017-18 (Up to June, 17).

(iv) Service Tax payment reconciliation sheet for the F.Y. 2016-17 to 2017-18 (Up to June, 17).

(v) Proof of payment of Service Tax during the Financial Years 2016-17 to 2017-18 (Up to 30.06.2017).

(vi) Sample Invoice issued during the F.Y. 2016-17 to 2017-18 (Up to June, 17).

(vii) Works Contracts made with your clients during F.Y. 2016-17 to 2017-18 (Up to June, 17).

2.6 The Appellant in response vide Letter dated ……….. submitted the copy of balance sheet, Form 26AS and ITR acknowledgement for the Financial Year 2016-17 and 2017-18.

2.7 The Balance Sheet of the Appellant for the year 2016-17 and 2017-18 (upto June 2017) were scrutinized and it was observed that the Appellant had shown receipts under the Head 'Revenue from Operations' and 'Other Income' in the Balance Sheets for the F.Y. 2016-17 and 2017-18 (April to June 2017). On the basis of the said return it was observed that the Appellant have short paid Service Tax for the Financial Years 2016-17 to 2017-18 (Up to June' 2017) detailed as under:-

Financial Year	Gross Receipts		Service Tax @ 15% on higher of 2 and 3	ST-3 Details			Service Tax Short Paid
	Balance Sheet	26AS		Gross Value	Cash	CENVAT	
1	2	3	4	5	6	7	8
2016-17	8462208	308450	1269331	5102389	287421	474654	507256
2017-18	744031	0	I 111605	442721	0	0	111605
	Total Short Paid						618861

2.8 The Appellant did not provided the copy of the invoices on the strength of which this CENVAT Credit has been availed, thus it was evident that Appellant had availed this CENVAT Credit amounting to Rs 4,74,374/- without any document. This CENVAT Credit which has been availed by the appellant without making available the documents was recoverable from them.

2.9 It was also observed that the Appellant had filed their ST-3 Returns much delayed as indicated in the Table below:-

Returns period	Date of filing		Delay in Number of Days
	Due	Actual	
2016-17 (Apr-Sept)	25.10.2016	10.10.2017	350
2016-17 (Oct-Mar)	30.04.2017	11.10.2017	164
2017-18 (Apr-June)	15.08.2017	23.02.2018	192

2.10 From the above observations Revenue concluded that during the Financial Year 2016-17 to 2017-18 (Up to June' 2017), Appellant,-

- provided taxable services but did not paid Service Tax amounting to Rs 6,18,861/-,
- took CENVAT credit amounting to Rs.4,74,374/- without any of the prescribed documents,
- did not file the ST-3 returns by the due date.

The amounts as above were demandable and recoverable from them under the provisions of Section 73 alongwith interest at applicable rate. Appellant was also liable to penalty under Section 78 of the Act.

2.11 Show Cause Notice dated 01.02.2022 was issued to the Appellant asking them to show cause as to why:-

a. Service Tax amounting to Rs.6,18,861/- (Rupees Six Lakhs Eighteen Thousand Eight Hundred Sixty One Only) (including all statutory Cesses as applicable) due upon them for the F. Y. 2016-17 to 2017-18 (up to June 2017) should not be demanded and recovered under proviso to Section 73(1) of the Act read with Section 173 and 174 of Central Goods & Services Tax Act, 2017 (hereinafter referred as "CGST Act"), as discussed in foregoing paras.

b. Interest due thereon at the applicable rate should not be demanded and recovered from them under Section 75 of the Act read with Section 173 and 174 of CGST Act on the amount of Service Tax short paid.

c. Penalty should not be imposed upon them under Section 78 of the Act for nonpayment of due Service Tax by suppressing the value of taxable services from the department with intent to evade payment of Service Tax read with Section 173 & 174 of CGST Act.

d. Penalty should not be imposed upon them under Section 77(1)(d) read with Section 173 and 174 of CGST Act for failure to pay service tax electronically to the department.

e. Late fees should not be demanded under rule 7C of the Rules read with Section 70 of the Act read with Section 173 and 174 of CGST Act for not furnishing the Service Tax return for the period Apr- Sept, 2016-17, Oct-Mar' 2016-17 and Apr-June, 2017 within due date of filing of returns as shown in Table-3 above.

f. Penalty should not be imposed upon them under section 77(1)(c)(i) and Section 77(1)(c)(ii) of the Act read with Section 173 and 174 of CGST Act for not providing the information and for not furnishing the documents as desired vide various letters issued by the department.

g. Penalty should not be imposed upon them under 77(1)(c)(iii) of the Act read with Section 173 and 174 of CGST Act for failure to appear before the Central Excise Officer, when issued with a Summon for appearance to give evidence or to produce document in an enquiry.

h. Inadmissible Cenvat Credit to the tune of Rs.4,74,374/- (Rupees Four Lakhs Seventy Four Thousand Three Hundred Seventy Four Only) should not be recovered as the same has wrongly been utilized for payment of Service Tax, under Rule 14 of CENVAT Credit Rules, 2004 read with Section 73 *of the Act read with Section 173 and 174 of CGST Act and a penalty under Rule 15 of CENVAT Credit Rules, 2004 read with Section 78 of the Act read with Section 173 and 174 of CGST Act CCR should not be imposed upon the Noticee for contravention of the Act and the Rules made, as discussed in foregoing paras.*

2.12 The Show Cause Notice has been adjudicated as per the Order-In-Original referred in Para 1 above.

2.13 Aggrieved Appellant filed appeal before the Commissioner (Appeals) which has been disposed of as per the impugned order. Hence the present appeal.

3.1 I have heard Shri Arun Srivastava, Advocate for the Appellant and Mrs. Chitra Srivastava, Authorized Representative for the Revenue. The hearing on the request of the appellant wa made electronically on 26.02.2026.

3.2 Arguing for the Appellant learned Counsel submits that

- the Show Cause Notice has been issued more than 02 years after the search and is barred by limitation.
- the demand has been made on the basis of the financial records of the Appellant and cannot be upheld.

3.3 Learned Authorized Representative appearing on behalf of the Respondent-Revenue reiterated the impugned order.

4.1 I have considered the impugned order alongwith the submissions made in the appeal and during the course of arguments. The impugned order records as follows:-

"5.1 I have carefully gone through the case records and averments submitted by the appellant. I find that the Appellant has contested that Search and Seizure of Service Tax cannot be conducted under the provisions of CGST Act hence subsequent proceedings of show cause and adjudication are illegal. 1 find that in the impugned order,

the Adjudicating Authority has appropriately held that search and seizure of Service Tax and issuance of show cause notice under Section 73 of the Finance Act, 1994 conducted in GST regime is valid in terms of Section 174(2) of the CGST Act, 2017. Therefore, I find no merit in this contention.

5.2 I find that the Appellant contention that impugned order has been passed ex-parte without considering reply dated 09.09.2022 of the Appellant along with order dated 28.02.2022 of the Hon'ble High Court of Allahabad, Lucknow Bench against show cause notice is incorrect as the Adjudicating Authority has taken note of aforesaid reply and order in the impugned order. 1 have also gone through the order dated 23.08.2022 and I observed that Hon'ble High Court has asked the Appellant to furnish explanation before the Adjudicating Authority. I also find that in their reply dated 09.09.2022, the Appellant has failed to bring any cogent explanation/facts/ record as to why they are not liable to pay service tax. Accordingly, I find no merit in this contention as well.

5.3 I find that in their grounds of appeal also the Appellant have failed bring any material explanation/facts/records as to why they are not liable to pay service tax or any exemption/ abatement is available to them.

5.4 Thus, in light of the above discussion, I don't find any reason to differ with the findings of the Adjudicating authority, accordingly, the appeal filed by the appellant is rejected."

4.2 The basic ground on which the Appellant have challenged the demand is on the ground of limitation. They have challenged the demand at the stage of Show Cause Notice before the Hon'ble High Court in Writ Tax No.127 of 2022 and the said writ petition was disposed of by the Hon'ble Court vide Order dated 23.08.2022 observing as follows:-

"By means of this petition the petitioner has challenged the show cause notice issued to it under Section 73 (1) of the Finance Act, 1994 alleging evasion of service tax etc.

The contention of learned counsel for the petitioner is that there is a limitation of 30 months prescribed under Section 73 (1) which has to be calculated from the relevant date which itself is defined in sub Section (6) of Section 73 and in this case it is Section 73 (6) (i) (a) which applies and based on it as the return mentioned therein pertaining to the financial year 2016-17, 2017-18 was filed on 22.05.2017 and 1.3.2018 respectively, therefore, on the date of issuance of notice i.e. 1.2.2022 the limitation had expired. Consequently, the concerned authority who has issued the notice lacked jurisdiction to issue such notice.

We have perused the show cause notice and at least in paragraph 15 if not elsewhere we find a reference to an attempt to evade payment of service tax and conjointly we have also read proviso to Section 73 (1) according to which where any service tax has not been levied or paid or has been short levied or short paid or erroneously refunded by reason of (a) fraud, or (b) collusion, or (c) willful mis-statement; or (d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or of the Rules made thereunder which intend to evade payment of service tax by the person chargeable with the service tax or his agent, the provisions of this sub section shall have the effect as if for the words 30 months the words five years had been substituted.

On being confronted with the aforesaid provision in the light of the recitals contained in the show cause notice the learned counsel for the petitioner submits that the recital in the show cause notice regarding evasion of payment of service tax is based on incorrect facts, however, we are of the view that this involves a factual enquiry and this Court *under Article 226 of the Constitution of India would not enter into such a factual dispute as to whether there was evasion of service tax or attempted evasion or not especially as this is one of the issues on merits also apart from the question of limitation.*

In this view of the matter, we are of the opinion that the ends of justice would suffice if the petitioner submits his explanation in response to the show cause notice before the concerned authority raising all pleas including on the point of limitation and jurisdiction consequent thereof, which should be considered and a decision shall be taken in respect thereof, meaning thereby, authority who has issued the show cause notice, after receipt of a response from the petitioner, shall consider the question of limitation in the light of the provisions contained in Section 73 of the Finance Act, 1994 and such other provisions as may be attracted and if he finds that in fact the show cause notice was issued at a time when the limitation period had already expired, then of course he will have to consider as to whether he has any jurisdiction to proceed with the show cause notice or not. However, if he finds that the limitation had not expired, then he shall give reasons for the same and then proceed to conclude the proceedings as per law. Needless to say that if aggrieved at any stage the petitioner is at liberty to avail any other remedy, if any, prescribed in law."

4.3 From the perusal of the above order it is quite evident that the Hon'ble High Court had specifically directed the Adjudicating Authority to decide on the issue of limitation taking into account the submissions that were made.

4.4 It is observed that event after getting the above directions from the Hon'ble High Court, the Appellant did not filed any reply to the Show Cause Notice or attended any personal hearing. Para 4 of the Order-In-Original records as follows:-

"The party within stipulated time failed to submit any defense reply to the above show cause notice. Following the principles of natural justice, party was accorded opportunities of personal hearing to be heard in person on 16.11.2022, 13.12.2022, and 27.12.2022. Party neither submitted any defense reply nor appeared in person or got themselves represented through any Authorized Representative on the dates of Personal Hearing accorded to them. Thus I am left with no option other than to decide the case ex-parte on the basis of material and evidences relied upon in the SCN issued."

4.5 On the issue of limitation, Original Authority has recorded as follows:-

"5.2 I find that the party is claiming that Search carried out by Anti-Evasion under Section 67 and subsequent SCN issued under Section 73 of the Finance Act, 1994 is not sustainable on account of CGST Act, 2017 coming into picture since July 2017 and hence the notice which has been issued in FY 2020-21 after July 2017 is not sustainable. I find no merit in the argument of the taxpayer because as per the Section 174 of the CGST Act, 2017 which reads as under:

(2) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not-

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

(d) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or

(e) affect any investigation, inquiry, verification (including scrutiny and audit). assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;

Thus from the above provisions it is clear that the Search carried out by Anti-Evasion and subsequent issuance of SCN under Section 73 of the Finance Act, 1994 is valid.

5.3 The party submitted that they were member broker of Multi-Commodity Exchange (MCX) and National Commodity & Derivatives Exchange Limited - NCDEX and were engaged in the transactions on behalf of their customer i.e. they *were member broker. Further they regularly filed ST-3 returns discharging their liabilities. The party is claiming to have discharged service tax liability on Rs. 51,02,389/-, however as per the balance Sheet, the revenue from operations 84,62,208/-. The party has requested 3 days time to reconcile the figures and submit a proper reply however till the date of passing of this Order, no reply has been received hence I am obligated to consider the facts on record.*

5.4 As per the Balance Sheets of the party for the Financial Years 2016-17 and 2017-18, it was noticed that the party has shown receipts under the head 'Revenue from Operations' and 'Other Income' in the Balance Sheets for the F.Y. 2016-17 and 2017-18 (April to June 2017). The Service tax liabilities were calculated on the aforementioned receipts of the party and service tax short paid / not paid by the party were computed for the Financial Years 2016-17 to 2017-18 (Up to June' 2017) which are as under:-

F.Y.	Revenue from Sale of Services as per B/s or Trial Balance		Value as per 26AS	S. Tax payable @15% (Higher value in B/s and 26AS has been taken)	Value as per ST3	S. Tax Service paid as per tax return		
						Cash	CENVAT	S. Tax Short/Not Paid
2016-17	Sale of Services	84,62,208	3,08,450	12,69,331	51,02,389	2,87,421	4,74,654	5,07,256
2017-18 (April to June 2017)	Sale of Services	7,44,031	0	1,11,605	4,42,721	0	0	1,11,605
Total								6,18,861

Note:

1) Tax Rate includes all the statutory cesses applicable during the respective Financial Years.

2) Since the Noticee did not submit month-wise details of services provided by them therefore higher rate of Send(n Tax applicable during that particular year te. @ 15% for the

F. Y. 2016-17 has been applied for computation of Service Tax liability.

Thus from the above table it is clear that the party has short paid the tax to the tune of Rs.6,18,861/-

5.5 The party has filed the Service Tax returns (ST-3s) after the due date of filing of returns as detailed mentioned hereunder in the Table-2'-

Return filing Status			
Returns period	Due date of filing	Actual Date of filing	Delay in filing of returns
2016-17 (Apr-Sept)	25.10.2016	10.10.2017	350
(Oct-Mar) 2016-17	30.04.2017	11.10.2017	164
2017-18 (Apr-June)	15.08.2017	23.02.2018	192

The party is liable to pay Late fees under Rule 7C of the Rules read with Section 70 of the Act read with Section 142 and 174 of CGST Act.

5.6 On scrutiny of the Service Tax returns (ST-3s) of the party for the Financial Year 2016-17 to 2017-18 (Up to June'2017), it is seen that they availed CENVAT Credit on input services received by them as given here under in Table-3-

Chart of Cenvat Credit Taken as per Service Tax Returns (Amount in Rupees)	
Returns period	Amount of Cenvat Credit Taken
2016- 17 (Apr-Sept)	374546
2016-17 (Oct-Mar)	100108
2017- 18 (Apr-June)	0
Total	**4,74,654**

The party has not provided the copies of invoice on the against which CENVAT Credit have been availed during the F.Y. 2016-17 to 2017-18 (Up to June' 2017), thus in absence of documents, the CENVAT cannot be held to be valid. Therefore, CENVAT Credit availed by the party is not admissible & appears to be recoverable under Rule 14 of CCR read with Section 73 of the Act and the party is also liable to a penalty under Rule 15 of CCR read with Section 78 of the Act.

5.7 I further find that since the demand of service tax has been confirmed the demand of interest arises under Section 75 of the Finance Act, 1994.

5.8 I further find that since there has been suppression on the party of party, they are liable for penalty under Section 78 on the service tax short paid/not paid."

4.6 In the Show Cause Notice following has been stated as reason for invoking the extended period of limitation:-

"Whereas from the afore-mentioned paras, it appears that the party was well known to their service tax liability but did not disclose the same in the statutory Service Tax returns (ST-3s) submitted by them during the F. Y. 2016-17 to 2017-18 (Up to June' 2017) to the department for paying Service Tax due on them and in this way suppressed the value of their gross receipts and accordingly not paid / short paid due amount of service tax and therefore attempted to evade payment of service tax. Had the Department not gathered intelligence about the evasion of service tax by M/s Wealth Mantra Commodities Private Limited, and not visited at the premises at 403, 4th Floor, Shalimar Titanium, Vibhuti Khand, Gomti Nagar, Lucknow, where the documents of the Noticee were resumed, the enquiry against non-payment of service tax would not have been initiated against the Noticee and the said non-payment of tax would not have been unearthed. Therefore, it appears that extended period for recovery of service tax is invokable as per proviso to Section 73 (1) of the Act. The party is also liable to penal action under Section 78 of the Act."

4.7 In the present case, I observe that despite the specific direction from the Hon'ble High Court the issue of limitation has not been presented before the Original Authority in the right prospective or has been considered by him. The impugned order also do not records any specific findings on the said issue. In absence of any specific findings on this issue as per the directions contained in the order of the Hon'ble High Court, I do not see any merits in the Order-In-Original. I also observe no specific findings have been recorded in the impugned order on the issue of limitation. Thus I am inclined to remit the matter back to the Original Authority for reconsideration of the issue in light of the observations made by the Hon'ble High Court vide Order dated 23.08.2022.

5.1 In view of the above, appeal is allowed. Matter is remanded back to the Original Authority for fresh decision on the issue of limitation.

5.2 The Appellant is directed to appear before the Original Authority alongwith all the documents when called for without seeking any adjournments.

5.3 Matter to be decided in remand proceedings within 03 Months from the date of the receipt of this order.

(Pronounced in open court on 19.03.2026)

Sd/-
(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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