CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.II

Service Tax Appeal No.70053 of 2026

(Arising out of Order-in-Appeal No.386-ST/APPL/LKO/2025 dated 31/10/2025 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Lucknow)

M/s Supriya Rajvansi, **.....Appellant**
(Prop. M/s India Interactive,
32, Ajanta Colony,
Vibhav Nagar, Agra-282001)

VERSUS

Commissioner of Central Excise &

CGST, Agra **....Respondent**

(113/4, Sanjay Place, Agra-282002)

APPEARANCE:

Ms Stuti Saggi, Advocate &
Shri S.P. Ojha, Consultant for the Appellant
Shri Prashant Kumar, Authorised Representative for the Respondent

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

FINAL ORDER NO.70119/2026

DATE OF HEARING : 27 April, 2026
DATE OF DECISION : 27 April, 2026

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.386-ST/APPL/LKO/2025 dated 31/10/2025 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Lucknow. By the impugned order, Commissioner (Appeals) has modified the Order-in-Original No.96/ST/AC/HQ/Agra/2024-25 dated 25.06.204 and allowed the appeal filed by the appellant, wherein following has been held:-

"ORDER

a. I confirm the demand of Service Tax amounting to Rs.1,77,027/-(Rupees One Lakh Seventy Seven Thousand and Twenty Seven Only) against the Noticee under the Section 73 (2) of the Finance Act, 1994, read with Section 174 of CGST Act, 2017 as discussed here-in-above.

b. I confirm the interest at the applicable rate on the amount of demand confirmed at S. No. (a) above under Section 75 of the Finance Act, 1994 read with section 174 of the CGST Act, 2017, as discussed here-in-above.

c. I also impose a penalty of Rs.1,77,027/- (Rupees One Lakh Seventy Seven Thousand and Twenty Seven only) upon the Noticee, under Section 78 of the Finance Act, 1994 read with Section 174 of CGST Act, 2017.

d. I impose Penalty of Rs.5,000/-(Rupees Five Thousand only) upon the Noticee under Section 77(1)(c)(ii) of the Act read with Section 174 of the CGST Act, 2017 for their failure to produce documents called for by the Department and;

e. I confirm the demand of late lee of Rs.40,000/-(Rupees Forty Thousand only) in terms of Rule 70 of the Service Tax Rules 1994 read with Section 70 of the Act and Section 174 of the Central Goods and Service Tax Act, 2017, for the reasons discussed here-in-above."

2.1 Appellant, having Service Tax Registration No.BBIPR9461ESD001, was engaged in providing taxable services.

2.2 On the basis of information received from the Income Tax department, it was noticed that the appellant had not paid Service tax amounting to Rs.1,77,027/- on receipts of during the period 2016-17 in respect of services provided.

2.3 Vide letters dated 09.06.2021 and 15.09.2021 appellant was asked to submit relied upon documents but the appellant had not submitted any documents.

2.4 On the basis of the available documents, departmental authorities calculated the tax liability as indicated the table below:-

Year	Total sale of services (ITR)	Total value for TDS (including 194C, 1941a, 194lb, 194J, 194H)	Higher value between Col. 2 & Col. 3	Service Tax paid as per TPI	Net Service Tax payable by the Noticee @ 15% (Col.4 - Col.5)
1	2	3	4	5	6
2016-17	1180179	115717	1180179	0	177027

2.5 Demand Cum Show cause notice dated 07.10.2021 was issued to the appellant asking them to show cause as to why:-

(i) *Service Tax (including cess) amounting to Rs.1,77,027/- (Rupees One Lakh Seventy Seven Thousand Twenty Seven only) not paid during the period 2016-17 should not be demanded and recovered from them by way of invoking the extended period under the proviso to section 73(1) of the Act read with Section 174 of the CGST Act, 2017;*

(ii) *Interest at the appropriate rates for the relevant period till the actual payment of the Service Tax mentioned at Sr. No. (i) above, should not be demanded and recovered from them under the provisions of 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 77(1) (c) of the Act in as much as the noticee failed to furnish the information called by the CGST & Central Excise Officer.*

(iv) *Penalty should not be imposed upon them for suppressing the facts from the department with intent to evade payment of service tax under Section 78 of the Act read with Section 174 of the CGST Act, 2017.*

(v) *Late fee for the delays in furnishing the prescribed ST-3 Returns amounting to Rs.40,000/-(Rupees Forty Thousand only) should not be demand and recovered from them as, in terms of Rule 7C of the Rules read with Section 70 of the Act and Section 174 of the Central Goods and Services Tax Act, 2017."*

2.6 The said show cause notice was adjudicated as per the Order-in-Original dated 25.06.2024 referred in para 1 above.

2.7 Aggrieved appellant have filed appeal before Commissioner (Appeals) which has been allowed as per the impugned order.

2.8 Aggrieved from the imposition of late fee and penalties appellant have filed this appeal.

3.1 I have heard Ms Stuti Saggi and Shri S.P. Ojha, Advocate for the appellant and Shri Prashant Kumar Authorized Representative for the revenue.

3.2 Arguing for the appellant learned Counsel prays for waiver of the late fee imposed under Rule 7C of the Service Tax Rules and penalties imposed under Section 77(1)(c) and 78 of the Act.

3.3 Authorized Representative reiterates the findings recorded in the impugned order.

4.1 I have considered the impugned orders along with the submissions made in appeal and during the course of argument.

4.2 Impugned order records the findings as follows:-

"5.1 In the instant case, the Service tax demand of 1,77,027/- on receipts of consideration amounting to Rs. 11,80,179/- during the period 2016-17 as reported by the Income Tax department. The appellant has neither submitted defense reply to the impugned demand SCN nor appeared for the personal hearing to bring the facts and figures before the adjudicating authority. On the other hand, the adjudicating authority decided the case ex-parte on the basis of figures and evidences received from Income Tax department.

5.2 After going through the documents submitted by the appellant in support of their appeal i.e. copy of 26AS and the balance sheet for the financial year 2015-16, it is amply clear that their turnover was Rs. 8,68,350/ which is less than Rs.10 Lacs and they were eligible for SSI exemption in the financial year 2016-17 on the gross turnover of Rs. 11,80,179/-. Accordingly, their taxable receipts for the financial year 2016-17 comes to Rs.

1,80,179/- including the amount of Service Tax as they did not collect the service tax from their clients. Therefore, the appellant is liable to pay service Tax of Rs. 23,502/- along with interest under Section 75 and equal penalty under Section 78 of the Act.

5.3 Regarding penalty amounting to Rs. 5,000/- imposed under Section 77(1)(c) and late fee of Rs. 40,000/- under Rule 7C of the Service Tax Rules'1994 read with Section 70 of the Finance Act imposed by the adjudicating authority in this case I am of the view that when penalty under Section 78 has been imposed no other penalty under Section 77 is imposable but the appellant was registered under the service tax the late fee for Rs. 40,000/- for non-filing of ST-3 returns 2 returns for the financial year 2016-17 under Section 70 read with rule 7C is not dispensable.

5.4 In view of the above, the following modifications in the impugned order has become necessary to address the instant appeal;

(i) amount of Service tax demand has been reduced to Rs. 23,502/- along with applicable interest under section 75 and equal penalty of Rs. 23,502/-under Section 78 of the Act ibid.

(ii) penalty of Rs. 5,000/- imposed under Section 77(1)(c) has been set aside.

6.0 In view of the above, I modify the impugned order and allow the appeal filed by the appellant with consequential relief, if any."

4.3 I find that Counsel for the appellant prays for waiver of the late fee imposed under Rule 7C of Service Tax Rules and penalties imposed under 78 of the Act.

4.4 Board has vide Circular No 97/8/2007 dated 23.08.2007 clarified as follows in respect of filing of ST-3 returns.

"6. Service tax return

6.1 The service tax return is required to be filed under Section 70 of the Act read with rule 7 of the Rules, by "any person liable to pay the service tax". This return is *required to be filed on a half yearly basis, in Form ST-3. For the periods from April to September and October to March, it must be filed by the 25th October and the 25th April respectively. Further, 'Input Service Distributor' is also required to file this return. Persons who are not liable to pay service tax (because of an exemption including turnover based exemption), are not required to file ST-3 return."*

Undisputedly impugned order hold that benefit of threshold exemption is available to the appellant. Thus in respect of total turnover of the appellant for provision of services of Rs 11,80,179/- benefit of threshold exemption of Rs 10,00,000/- has been allowed to the appellant. That being so appellant in terms of the above circular was not required to file any service tax return during the period they were within the threshold exemption limit. From the 26AS of the appellant it is evident that the total receipts of the appellant during the first six months i.e. for the period 1st April 2016 to 30th September 2016 were less than the threshold exemption limit. Hence they were not required to file any service tax return (ST-3) return for this period which was due by 25.10.2016. Hence late fees imposed in respect of this return cannot be justified. The late fees of Rs. 20,000/- imposed for non filing of this return for period 1st April 2016 to 30th September 2016 is thus set aside.

4.5 Penalty imposed upon the appellant under Section 78 is mandatory when the demand has been confirmed by invoking extended period of limitation. Reliance is placed on the decision of Hon'ble Supreme Court in the case of Rajasthan Spinning and Weaving Mills Ltd. [2009 (238) ELT 3 (SC)]. Thus I do not find any merits in the prayer made for reduction/ modification/ setting aside of this penalty.

4.6 Penalty imposed under Section 77(1)(c) has been set aside by the impugned order. Hence there seem to be no ground for the prayer being made for setting aside this penalty.

4.7 In result the late fees imposed in respect of non filing of the ST-3 return for the period 1st April 2016 to 30th September

2016 due on 25.10.2016 is set aside. The penalty imposed under Section 78 and the late fees of Rs 20,000/- imposed in respect of ST-3 return due to be filed on 25.04.2026 is upheld. Impugned order stand modified accordingly.

5.1 Appeal is partially allowed.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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