

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

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70840 of 2025

(Arising out of Order-in-Appeal No.NOI-EXCUS-002-APPL-130-2025-26 dated 25.08.2025 passed by Commissioner (Appeals) CGST & Central Excise, Noida)

M/s Varada Manpower Solutions,Appellant
(Prop. Shri Rakam Singh,
431, Tower-4, Golf Vista Apartment,
Alpha-2, Greater Noida-201305)

VERSUS

**Commissioner of Central Excise &
CGST, Noida**Respondent
(4th Floor, C-232A/2 to C-232A/3,
GST Bhawan, Sector-48, Noida-201301)

APPEARANCE:

Ms. Stuti Saggi, Advocate for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

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

FINAL ORDER NO.- 70171/2026

DATE OF HEARING : 16.02.2026
DATE OF PRONOUNCEMENT : 19.05.2026

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.NOI-EXCUS-002-APPL-130-2025-26 dated 25.08.2025 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Noida.

2. The facts of the case in brief are that on the basis of data received from Report No.41B of the DGARM, New Delhi for the Financial Year 2016-17, that the assessee had received an amount of Rs.6,18,62,236/- against taxable services provided by him. It is the case of the Department that such services are not covered in the Negative List under Section 66D of the Finance Act, 1994 and accordingly, documents were called for and the

same were complied with. Show Cause Notice¹ dated 22.10.2021 was issued proposing to demand Service Tax amounting to Rs.46,26,613/- inclusive of SBC and KKC alongwith applicable interest and for imposition of penalty. The Adjudicating Authority vide the Order-in-Original dated 06.12.2022 confirmed the demand as proposed in the SCN and imposed penalty of equal amount under Section 78 and penalty of Rs.10,000/- each under Section 77(1)(c)(i), Section 77(2) of the Finance Act, 1994.

3. Being aggrieved, the Appellant filed appeal before the first Appellate Authority and the learned Commissioner (Appeals) vide the impugned Order-in-Appeal modified the demand to Rs.8,26,764/- by observing as under:-

"9. Now, I proceed to examine the accuracy of the said service tax paid under RCM by M/s Jayanita as well as M/s Shara by going through the documents submitted on record by the appellant. The details thereof in table form are as under-

Service Recipient	Description of services received	Value of services	Service Tax liable to pay @ 15%	Service Tax paid (S. tax + Cess)	Diff. Service tax to be payable (4-5)
1	2	3	4	5	6
M/s Jayanita	Manpower supply service	2,62,81,703	39,42,255	37,99,849	1,42,406
M/s Shara		45,62,389	6,84,358	0	6,84,358
	Total	3,08,44,092/-	46,26,613/-		8,26,764/-

9.1 On perusal of the documents submitted on record inter alia details as summarized above, I am of the considered view that the appellant is eligible for relief and not liable to pay the said service tax in respect of M/s Jayanita only to the extent of already paid the same by the service recipient in terms of the Notification No.30/2012-ST dated 20.06.2012 as amended vide Notification No.07/2015-ST dated 01.03.2015. Further, in respect of M/s Shara, the

¹ SCN

appellant is liable to pay the entire service tax as no documentary evidence is submitted on record by the appellant. Hence, the appellant is liable to pay total service tax amounting to Rs.8,26,764/- out of the total confirmed demand of Rs.46,26,613/- in the impugned OIO along with applicable interest, equal penalty and other penalties in ratio thereof and the same are liable to be recovered.”

Hence the present appeal before the Tribunal.

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

5. It is the case of the Appellant that he was engaged in providing Manpower Supply Services and recipient of such Manpower Supply Services, as per the order placed by them, were paying 100% Service Tax payable under Section 68(2) of the Finance Act, 1994 read with Rule 2(d)(F) and Sl. No.8 of Notification No.30/2012-ST dated 20.06.2012 under Reverse Charge Mechanism² and though the Appellant was neither required to file any ST-3 returns nor was paying any Service Tax, still he was registered with the Service Tax Department. I find that on the basis of third party data, the proceedings were initiated, though the Appellant assessee being a service provider is not liable to pay Service Tax when the same is already paid by the service recipient under RCM. I find that the dispute in the present appeal is no more *res integra* and is squarely covered by the decision of the Tribunal in the case of M/s Utility Labour Suppliers vs. CCE, Ahmedabad-II being Service Tax Appeal No.10780/2022.

6. I find that the entire case of the Appellant has been build up merely on the basis of third party data and the financial statements. I find that the demand raised by invoking longer period of limitation is solely based upon the financial statements submitted by the Appellant and the third party data, which has consistently been held to be as not proper by Tribunal in various decisions. Reference stands made to the decision of Hon'ble Madras High Court in the case of M/s Firm Foundation and Housing Pvt. Ltd. vs. Principal Commissioner of Service Tax,

² RCM

Chennai (Mad) pronounced on 06.04.2018 in Writ Petition No.21799 of 2017, as also to the Tribunal's decision in the case of M/s Sigma Trade Wings vs. Commissioner of Central Excise, Lucknow, Final Order No.70049 of 2019 dated 07.01.2019. It is held in both the above decisions that the Revenue's reliance upon financial statements and third party data are irrelevant for the purpose of confirmation of tax. Inasmuch as, the Revenue's entire case is based upon the financial statements and third party data stands confirmed by invoking the longer period of limitation. It is my considered view that the impugned order of learned Commissioner (Appeals) is not sustainable on limitation itself.

7. Accordingly, demand and penalties imposed are set aside and the appeal filed by the Appellant is allowed with consequential relief, if any, as per law.

(Order pronounced in open court on - **19.05.2026**)

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

LKS