CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70087 of 2026

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/220/2024-25 dated 04.12.2024 passed by Commissioner (Appeals) CGST & Central Excise, Meerut)

M/s PASCO Builders, **.....Appellant**
(D-102, 1st Floor, Metro Plaza,
U.P., Meerut-250002)

VERSUS

Principal Commissioner of Central Excise &
CGST, Meerut **....Respondent**
(Mangal Pandey Nagar, Opp.
CCS University, Meerut-250005)

APPEARANCE:

Shri Vishwjit, Advocate for the Appellant
Shri Prashant Kumar & Shri Abhishek Mukherjee, Authorized Representative for the Respondent

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

FINAL ORDER NO.- 70182/2026

DATE OF HEARING : 14.05.2026
DATE OF DECISION : 14.05.2026

P. K. CHOUDHARY:

Heard both the sides and perused the appeal records.

2. I find that the proceedings were initiated on receiving the data from the third party i.e. Income Tax Department as per the table below:-

1	2	3	4	5
Total Sale of Services (ITR)	TOTAL Value for TDS (including 194C, 194Ia, 194Ib, 194J, 194H)	Gross value (STR)	Difference between value of services from ITR & Gross value in STR	Difference between value of ITR and value in STR
15924819	16749653	8271916	8477737	8477737

3. The Appellant assessee has submitted that the difference in the ST-3 returns and the Income Tax Returns is owing to following:-

Sr. No.	**Particulars**	**Amount (Rs.)**
A.	It is submitted that invoices were not uploaded in their ST-3 Returns on Online Portal while full tax was deposited by them.	62,71,870/-
B.	The amount pertains to F.Y. 2015-16.	22,05,866/-
C.	Amount received as freight from Reliance Jio Infocomm Ltd. under RCM.	13,81,031/-

4. Learned Advocate has filed written submission which is reproduced below:-

1. *That in the Form 26AS (TDS statement) for the F.Y. 2016-17, following amounts are reflected –*
   HFCL Limited Rs.1,05,45,941-00
   Reliance Corporate IT Park Ltd. Rs.24,03,432-00
   Bharti Airtel Ltd. Rs.38,00,280-00
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   *Total Rs.1,67,49,653-00(**page 43**)*

2. *That as per Trading Account / Balance sheet the amount of Rs.1,45,43,787/- was received against providing the services during the F.Y. 2016-17 from*

   *HFCL Rs.10545941-00 **(page 47-53**)*
   *Reliance Corporate Rs.197565-00 **(page 54)***
   *Bharti Airtel Rs.38,00,280-00 **(page 55)***

   Total Rs.1,45,43,787-00

3. *That Rs.13,81,032-00 was received against transportation from M/s Reliance Corporate IT Park Ltd as such total amount of Rs.1,59,24,819 has been shown in the Trading account and in filing the ITR. There was no liability of service tax upon the applicant on the amount of Rs.13,81,032-00 related to transportation. The said amount of Rs.13,81,032 was received against transportation from M/s Reliance Corporate IT Park Ltd, covered under RCM (reverse charge mechanism) and liability of service tax upon the M/s RC IT Park Ltd. being a body corporate as per Notification No.30/2012 dated*

20.06.2012. Said amount is not reflecting in 26AS as no TDS was deducted thereon by RC IT Park Ltd. The liability of service tax on freight of transportation of goods upon the person who receiving the service ie in the present case liability was upon the RC IT Park Ltd.(***pages 56-58****)*

4. *That the difference amount as per the trading account and Form 26AS was payment of Rs.22,05,867-00 related to invoices which have been raised in the previous F.Y. 2015-16 to M/s R C IT Park Ltd but payment of said invoice has been received in the current F.Y. 2016-17. The proper service tax was already paid on the said amount of Rs.22,05,867-00 in the previous financial year by availing the exemption and abatement (Pages 59-63)*

5. *That applicant has deposited the service tax of Rs.12,20,360-00 vide different challans mentioned in the returns ST-3 filed during F.Y. 2016-17 Rs.4,11,402/- from CENVAT Credit-on input services and Rs.1,62,987/-(50% of CVD of Rs.325973-00) on the capital goods purchased / imported from outside India. Total amount of Rs.17,94,749/- was more against the above said tax liability of Rs.17,78,310-00. (Pages 64 & 65)*

6. *That under the clause 9 of the notification No.30/2012 Service Tax dated 20.06.2012, wherein 50% of the service tax is to be paid by the service provider (Contractor) and remaining 50% of the Service Tax is to be paid by the Service Receiver (Contractee). Hence, liability to pay service tax upon both the service provider and service receiver each at the rate 50%. In the present case, demanding of 100% service tax from the appellant on the amount reflected in 26AS without considering the applicable notification is wholly illegal and unjust.*

7. *That as per Notification No.24/2012 ST dated 6.6.2012, rule 2A was inserted. Clause (ii) of Rule 2A provides that where value has not been determined under (i), the person liable to pay tax on the service portion involved in execution of work contract shall determine the service tax payable in the following manner*

   (A) in case of work contract entered into for the execution of original work, service tax shall be payable on 40% of total amount charged
   (B) in case work contract for maintenance or repair, service tax shall be payable 70% of total amount charged

(c) in case work contract, not covered under (A) & (B) service tax payable on 60% of total amount charged for work contract.

8. That as per audited balance sheet and Trading account for 2016-17, amount of Rs.1,45,43,787/- has been billed against the services specified under following table and deposited service tax on the same after availing exemption and abatement provided under Notification No.30/2012 dated 20/06/2012 and Notification No.24/2012 dated 06/06/2012 and filed service tax returns for that period. Amount of Rs.13,81,032/- was also shown against the transportation charges from M/s Reliance Corporate IT Park Ltd in the trading account. There was no service tax liability upon the applicant on said amount of Rs.13,81,032/-

S No	Name of Party	Value of Service	Abatement	Taxable Value	Service Tax	Remarks
1.	Himachal Futuristics Communication Ltd.	1,05,45,942/-	0.00/-	1,05,45,942/-	15,72,687/-	ST paid @ 15%
2.	Reliance Corporate IT Park	1,97,565/-	1,18,539/- (60%)	79,026/- (40%)	5,729/-	Rs. 5729 paid by the recipient
3.	Bharti Airtel Ltd.	38,00,280/-	11,40,084/- (30%)	26,60,196/- (70%)	1,99,894/-	
	Sub Total	**1,45,43,787/-**	**12,58,623/-**	**1,32,85,164/-**	**17,78,310/-**	
		13,81,032/-	0.00/-	13,81,032/-	Payable by Recipient	
	Total	**1,59,24,819/-**	**12,58,623/-**	**1,32,85,164/-**	**17,78,310/-**	

9. That there is no issue involved relating to freight amount of Rs.13,81,032/- received against the transportation charges from M/s Reliance Corporate IT Park Ltd. liable under RCM (reverse charge mechanism) basis and M/s RCIPL being a body corporate is liable to pay service tax under RCM as per Notification No.30/2012 dtd. 20.06.2012.

10. That it is submitted that the ST-3 returns filed by the consultant of the appellant during the year 2016-17 for a net taxable value of Rs.82,71,916/- after considering abatement of 30% & 60% as per Notification No.24/2012 dtd. 06/06/2012 and Notification No.30/2012 dated. 20.06.2012 for the taxable value of Rs.1,45,43,787/-. This is a clerical mistake made by the consultant without any *intention to evade the taxable value or payment of service tax.*

11. That the authorities below have neither considered the Notification and provision of law nor the material on record and documents produced by the applicant. The service tax has been demanded without given benefit for the claim of aforesaid CENVAT Credit on input services and CVD on the purchase of capital goods. Hence, the impugned order is wholly against the law unjust, illegal as such liable to be quashed by the Hon'ble Tribunal.

12. That the 26AS is a document of the Central Government, and in view of judicial pronouncement and settled law that third-party information received from the Income Tax Department in Form 26AS could not be the basis for invoking the proceeding under the extended period of limitation under the proviso to section 73(1) of the Finance Act as there is no suppression of facts."

5. In view of the above submissions, I find it appropriate to remand the matter to the learned Adjudicating Authority to consider the submissions of the Appellant assessee and pass the *de novo* order. All issues are kept open. The Appellant is also directed to cooperate in the remand proceedings and not to seek unnecessary adjournments. The appeal filed by the Appellant is allowed by way of remand to the learned Adjudicating Authority.

(Dictated and pronounced in open court)

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

LKS