CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No.II

Service Tax (Restoration of Appeal) Application No.70139 of 2026 IN
Service Tax Appeal No.70079 of 2026

(Arising out of Final Order No.70086 of 2026 dated 23 March, 2026 passed by Customs, Excise & Service Tax Appellate Tribunal, Allahabad)

M/s Ramlal Contractor, **....Appellant**

(Manchhana, Manchhana, Mainpuri-205001)

VERSUS

Commissioner of Central Excise &

CGST, Kanpur **....Respondent**

(117/07, Sarvoday Nagar, Kanpur-208005)

APPEARANCE:

Shri Prateek Dev, Advocate for the Appellant
Shri Manish Raj, Authorised Representative for the Respondent

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

MISCELLANEOUS ORDER NO.70181/2026 IN

FINAL ORDER NO.70223/2026

DATE OF HEARING : 01 July, 2026
DATE OF DECISION : 01 July, 2026

SANJIV SRIVASTAVA:

This Restoration of Appeal, Application has been filed by the appellant for restoration of the Final Order No.70086 of 2026 dated 23 March, 2026 dismissed on the ground of non-appearance and also on the ground of maintainability.

1.2 Heard both sides and perused the Miscellaneous Application. Taking note of the submissions made in the application specifically the decision of Hon'ble Supreme Court in the case of CC, Calcutta Vs Indian Oil Corporation Ltd. 2004 (165) ELT 257 (SC), Hon'ble Allahabad High Court in the case of M/s Name Singh vide order dated 27.01.2026 in Central Excise Appeal No.3 of 2026 and this Tribunal in the case of M/s Nirmal

Products Ltd. Vs CCE (Tri.-Ahmedabad), I am inclined to allow the restoration application.

1.3 The Miscellaneous Application filed by the appellant for restoration of the appeal is allowed.

1.4 Further, with consent of both the sides, I decide to hear the appeal today itself.

1.5 This appeal is directed against Order-in-Appeal No.201/ST/APPL/ALLD/2025 dated 15.10.2025 passed by Commissioner (Appeals) Customs, Central Excise and Service Tax, Allahabad. By the impugned order following has been held:-

> *"5.9 I am of the opinion that exemptions are conditional and require strict compliance with the stipulated conditions. The onus is on the assessee to prove eligibility for the exemption through clear, cogent, and admissible documentary evidence. This is in line with general principles of taxation law, where exemptions are construed strictly, and the burden of proof lies with the claimant. Thus, in the absence of documentary proof and cogent I am unable to extend any relief to the appellant. Accordingly, I conclude that the appellant were rightly held liable to pay service tax amounting to Rs. 20112/- (Rs. 18777/- for providing WCS + Rs. 1335/- for legal expense).*
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> *5.10 Thus I find that the Adjudicating Authority has rightly deduced the service tax to the tune of Rs. 20112/- which the appellant is liable to pay alongwith interest and penalty under section 75 and 78 of the Act, respectively. I also agree with the Adjudicating Authority with regard to the imposition of penalty of Rs. 10000/- each under section 77(1)(a), 77(1)(c) and 77(1)(d) and late fee of Rs. 100000/- under section 70 of the Act.*
>
> *6.0 Therefore, in the light of discussions made in the preceding paras, I find no anomaly in the impugned order and hence reject the appeal filed by the appellant. The appeal is accordingly disposed of in the above terms."*

2.1 Appellant was not registered with the Department and on the basis of information received from the Income Tax Department that appellant had received huge amount on the account of provisions of services, investigation/inquiries were initiated and appellant was asked vide letter dated 06.11.2019 to provide the documents such as Form ST-2, details of nature of work/services provided, ST-3 returns, Bills/Invoice/Job-work bills issued towards services provided, Form-26AS, Balance Sheet along with Profit and Loss Account, Income Tax returns etc. In response to the said letter appellant vide letter dated 18.12.2019 submitted that they are not registered with the department and during this period 2015-16, 2016-77 & 2017-18 (upto June, 2017) they have received work contract for services provided by way of construction work as detailed in table below:-

S.N.	Financial Year	Name of the Department (M/s.)	Amount in Rs.
1	2015-16	Ex. Eng. ConstDiv, PWD Mainpuri	3,89,900
2	2015-16	Drainage Div, Irrigation Department Etah	96,496
3	2015-16	Mainpuri Div, Lower Ganga Canal	2,99,232
4	**2015-16**	**Sub-total**	**7,85,628**
5	2016-17	Ex. Eng. Prov, Div, PWD Mainpuri	1,64,56,757
6	2016-17	Ex. Eng. MainpuriDiv, Lower Ganga Canal	40,46,548
7	2016-17	Ex. Eng. Const. Div, PWD Mainpuri	21,58,244
8	2016-17	Ex. Eng. RES Mainpuri	3,12,944
9	**2016-17**	**Sub-total**	**2,29,74,493**
10	Apr- Jun'17	No Payment Till the date	0
11		**Total**	**2,37,60,121**

2.2 The services of road construction, irrigation work provided to Government Department is exempt from payment of service tax vide Notification No.12/2012-ST dated 17.03.2012 and they are engaged in providing work contract services in relation to road constriction service, irrigation work for use by the general public, so they were not required for registration under the Service Tax Act. They provided the copies of the documents as asked for.

2.3 On the basis of information provided, after allowing for the abatement as admissible, revenue was of the view that appellant had not paid service tax in respect of these receipts as detailed in table below:-

S. No	Period	Taxable Value	Service Tax including cess	
			@%	Payable
1	Apr'15 to May'15	13065	12.36	1615
2	01.06.15 to 14.11.15	203081	14.00	28431
3	15.11.15 to 31.03.16	333791	14.50	48400
4	Apr'16 to May'16	0	14.50	0
5	Jun'16 to Mar'17	16082146	15.00	2412324

6	Apr'17 to Jun'17	0	15.00	0
7	**Total**	**16632083**		**2490770**

2.4 It was also noticed that appellant have not paid service tax on reverse charge basis in respect of legal fee paid by them as detailed in table below:-

S. N.	Period	Legal Fees	Service Tax including cess	
			@%	Payable
1	2015-16	3000	14.50	435
2	2016-17	3000	15.00	450
3	2017-18 (1st Qtr)	3000	15.00	450
	Total	9000		1335

2.5 Show cause notice dated 18.12.2020 was issued to the appellant asking them to show cause as to why:-

"(i) An amount of Rs.2,37,69,117/- (Rupees Two Crore Thirty Seven Lakh Sixty Nine Thousand One Hundred Seventeen Only) should not be treated as the value of taxable services provided by them during the period from Apr 15 to Jun'17, and accordingly Service Tax amounting to Rs. 24,92,105/- (Rupees Twenty Four Lakh Ninety Two Thousand One Hundred Five Only) including Education Cess, Secondary & Higher Education Cess, Swachh Bharat Cess and KrishiKalyan Cess not paid should not be demanded and recovered from them under proviso to Section 73(1) of the Finance Act, 1994 as amended read with Section 174 of the CGST Act, 2017;

(ii) Interest at the appropriate rate should not be charged and recovered from the 'Noticee' in respect of amount of service tax mentioned at S.N. (i) aboveunder Section 75 of the 'Act' read with Section 174 of CGST Act, 2017;

(iii) Penalty should not be imposed upon them in respect of amount of service tax mentioned at S.N. (i) above under Section 78 of the 'Act' read with Section 174 of CGST Act, 2017,

(iv) Penalty under Section 77(1)(a), 77(1)(c), 77(1)(d) and 77(2) of Finance Act, 1994 read with Section 174 of CGST Act, 2017 should not be imposed upon them for their various acts of omission and commission as discussed above;

> *(v) the late fee / amount under Section 70 of Finance Act, 1994 read with Rule 7(C) of ibid and read with Section 174 of CGST Act, 2017should not be imposed upon them for their various acts of omission and commission as discussed above;"*

2.6 The said show cause notice was adjudicated as per the Order-in-Original No.35-ST/ADT-CIR-I-KNP/2023 dated 28.04.2023 dropping the demand of service tax amounting to Rs.20,11,402/- and confirming the remaining demand, penalty under Section 78, 77(1)(a), 77(1)(c), 77(1)(d), 77(2) and 70 was also imposed upon the appellant.

2.7 Appellant challenged this order before the Commissioner (Appeals), who vide Order-in-Appeal No.1454/ST/ALLD/2023 dated 09.11.2023 set aside the Order-in-Original and remanded the matter back to the Original Authority for fresh decision.

2.8 The matter has been adjudicated vide Order-in-Original No.21/AC/ADJ/ST/2024 dated 30.07.2024 wherein following has been held:-

> *"(i) I hereby confirm the demand of Service Tax amounting to Rs.20,112/- (Rupees Twenty Thousand One Hundred Twelve only) on the taxable amounts received / incurred during FY 2015-16, 2016-17 and 2017-18 (up to June'17) by the party and order to recover the same from them under proviso to Section 73(1) of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017;*
>
> *(ii) I hereby order to recover interest at the appropriate rate on the above confirmed amount of service tax from them under the provisions of Section 75 of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017;*
>
> *(iii) I hereby impose penalty amounting to Rs.20,112/- (Rupees Twenty Thousand One Hundred Twelve only) upon them under Section 78 of the Finance Act, 1994, read with Section 174 of the CGST Act, 2017 for their acts of omission and commission as mentioned in preceding paras;*
>
> *(iv) I hereby also impose penalty amounting to Rs.10,000/-(Rupees Ten Thousand only) under Section 77(1)(a)of the Finance Act, 1994, read with Section 174 of*

the CGST Act, 2017 for their acts of omission and commission as mentioned in preceding paras;

(v) I hereby also impose penalty amounting to Rs.10,000/- (Rupees Ten Thousand only) under Section 77(1)(c) of the Finance Act, 1994, read with Section 174 of the CGST Act, 2017 for their acts of omission and commission as mentioned in preceding paras;

(vi) I hereby also impose penalty amounting to Rs.10,000/-(Rupees Ten Thousand only) under Section 77(1)(d) of the Finance Act, 1994, read with Section 174 of the CGST Act, 2017 for their acts of omission and commission as mentioned in preceding paras;

(vii) I hereby order to recover a late fee of Rs. 1,00,000/- (Rupees One Lakhs only) upon the party under Section 70 of the Finance Act, 1994, read with Rule 7(C) of ibid and read with Section 174 of the CGST Act, 2017 for their failure to file ST-3 returns for the period April'15 to June'17.

(viii) I do not impose any penalty upon them under Section 77(2) of the Finance Act, 1994, as discussed above."

2.9 Aggrieved appellant have filed appeal before Commissioner (Appeals) which has been disposed of as per the impugned order referred in para 1 above.

2.10 Aggrieved appellant have filed this appeal.

3.1 I have heard Shri Prateek Dev learned Counsel appearing for the appellant and Shri Manish Raj learned Authorized Representative appearing for the revenue.

3.2 Arguing for the appellant learned Counsel submits that-

- The total taxable turnover towards provisions of services after totaling the services exempted as held by the department is only Rs.3,12,944/- on which this demand has been made. In respect of this demand they had claimed the benefit of threshold exemption provided under Notification No.33/2012. The taxable turnover being less than Rs.10 lakhs could not have been taxed in view of the exemption provided by the said Notification.
- In respect of the legal fees, they produced documents to so that the above amount was paid towards purchase of stamp papers and was not in relation to any fees being

paid by them. The amount paid for purchase of stamp papers would be not taxable under this category.

- Penalties imposed upon the appellant are excessive and confiscatory.

3.3 Learned Authorised Representative reiterates the findings recorded in the orders of the lower authorities.

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:-

"5.3 After going carefully through the facts of the case on the basis of documents/records available on the case file, I find that the Adjudicating Authority has decided the case after taking into account all the documents submitted by the appellant. As per the impugned order the appellant has submitted the copy of work orders, Form 26AS and other relevant documents. The Adjudicating Authority has extended the benefit of exemption to the appellant on the consideration received by them except on the gross amount of Rs. 312944/- received for construction of Anganwadi Kendra. Also, the Adjudicating Authority held that the appellant is liable to pay service tax on the expense of Rs. 9000/- incurred towards legal fees. Therefore, I would limit myself only on the issue related to point of appeal.

5.4 In their defence the appellant have submitted that they have provided construction services to government department which is covered under mega exemption notification and hence no service tax is applicable on it. With regard to imposition of service tax liability on the legal expense incurred, the appellant submitted that they were the expense for meeting out purchase of stamps. Hence there is no tax liability on the purchase of stamps under reverse charge.

5.5 I find that there is no issue regarding the nature of services provided and the service recipient. The appellant has contended that construction services provided to *government department are covered under mega exemption notification, hence no service tax is applicable. Further there is no tax liability under reverse charge on purchase of stamps. However, I note that the Adjudicating Authority has observed that the appellant had received the consideration of Rs. 312944/- in lieu of services provided for construction of Anganwadi Kendra during the period 2016-17 on which the appellant were liable to pay tax in terms of Rule 2A(ii) of Service Tax (Determination of Value) Rules, 2006.*

5.6 I am of the opinion that with the introduction of Notification No. 09/2016-ST dated 01.03.2016, the reach of mega exemption notification has been limited and confined to the provisions contained under clause no. 12A. The plain reading of the same reveals that the exemption provided has been limited on specific activities for the contract which were entered prior to 01.03.2015. In this connection I observe that the appellant have not proved that the agreement were entered prior to the specific date as give under clause no. 12A of the notification ibid. Thus, I find that the services provided to Anganwadi Kendra during the period 2016-17 were not covered under mega exemption notification, as amended. The relevant provisions of the same is given as under-

> *12A. 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 structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or*
>
> *(c) 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;

under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date: provided that nothing contained in this entry shall apply on or after the 1st April, 2020;]

5.7 I also note that Rural Engineering Service is not a body corporate as it is not profit oriented and also because it is not registered under Company's Act 1956, hence the provision of reverse charge would not be applicable in this case. Now coming to the issue of cum-tax-benefit, I note that the appellant has not submitted any document which could establish that service tax has not been charged separately. The appellant should have provided the copy of invoices/bills or agreement which could corroborate that the appellant has not charged service tax separately. Thus, I find that the Adjudicating Authority has rightly concluded the service tax liability to the tune of Rs. 18777/- on the gross receipt of Rs. 312944/-

5.8 The appellant has also contested that they have not incurred any legal expense towards payment of Advocate fee, which was rather paid for purchase of stamps. However, the demand was confirmed by the Adjudicating Authority on the payment of Rs. 9000/-made by appellant under legal head due to non-sufficiency of documents. It was found that the appellant did not provide any material documents in support of their version. Therefore, the Adjudicating Authority confirmed the demand of Rs. 1335/- on the expense of Rs. 9000/- incurred under legal head."

4.3 From the facts as recorded, it is evident that the total taxable turnover of the appellant after excluding the exempted services is less than Rs.10 lakhs. Accordingly, they should be entitled to exemption under Notification No.33/2012-ST as explanation (B) to this notification reads as follows:

"Explanation.- For the purposes of this notification,-

(A) ……

(B) "aggregate value" means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification."

The entire demand made in respect of the taxable services provided by the appellant towards construction of Aganwadi on the taxable value of (Rs 3,12,944/-) is exempt from payment of service tax being much below the threshold exemption limit of Rs 10 Lakhs as provided by this notification. Thus, this demand is set aside.

4.4 I also find that legal expenses incurred by the appellant were towards the purchase of stamp papers. To obtain the requisite information appellant made a request under RTI from the concern Government Department who provide the copies of stamp papers. As these expenses are not towards any legal expense but towards purchase of stamp papers, they could not have been subjected to service tax under reverse charge mechanism. Thus, this demand is also needs to be set aside.

4.5 As both the demands made against the appellant are set aside, I do not find any merits in the penalties imposed upon them and the same are set aside.

4.6 Impugned order lacks merit.

5.1 Appeal is allowed.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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