CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70206 of 2021

(Arising out of Order-in-Appeal No.57/ST/ALLD/2021 dated 24.02.2021 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Novus Solutions, **.....Appellant**
(NH29, Bye pass Road, Bhiti,
Post-Maunath Bhanjan, Distt.-Mau-275101)

VERSUS

Commissioner of Central Excise &
CGST, Varanasi **....Respondent**
(38, M.G. Marg, Civil Lines, Allahabad-211001)

APPEARANCE:

Shri Subhash Chandra Yadav, Advocate & Shri Rahul Yadav, Advocate for the Appellant
Shri Surendra Ram, Authorized Representative for the Respondent

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

FINAL ORDER NO.- 70261/2026

DATE OF HEARING : 06.08.2026
DATE OF DECISION : 06.08.2026

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.57/ST/ALLD/2021 dated 24.02.2021 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad.

2. Briefly stated, the facts of the case are that the Appellant M/s Novus Solutions, Proprietor: Shri Praveen Kumar, is registered with the Service Tax Department and is providing services of "Clearing & Forwarding Agent" as a **Pure Agent** as covered under Rule 5(2) of Service Tax (Determination of Value) Rules, 2006. After brief communication, a Demand cum Show Cause Notice[1] was issued for the period from 2013-14 (October-March) to 2017-18 (upto June) proposing to demand Service Tax

[1] SCN

amounting to Rs.17,01,818/- alongwith applicable interest and for imposition of penalty as per the chart given below:-

.No	Period	Gross Receipt as per 26AS	Total Gross receipt as per balance sheet /profit & Loss Acctt.	Gross Value received as per ST.3	Maximum of col. 3, col.4 & col.5 (gross cum tax value)	Net Taxable Value	Rate of Service Tax	Service Tax payable including Ed.Cess & SHE Cess, SBC & KKC on the net taxable value of Col.7	Service Tax Paid as per ST-3 Returns	Difference of Service tax to be paid
1	2	3	4	5	6	7	8	9	10	11
1	2013-14 (Oct- to March)	10347482		8558201	10347482	10347482	12.36%	1278949	1057794	221155
2	2014-15	18045128	20226501.62	15607127	20226501.62	20226502	12.36%	2499996	1929043	570953
3	2015-16	16746098	19500765	16778351	19500765	0	12.36%	0	2341055	43148[illegible]
4						11014764	14.00%	1542067		
5						8486001	14.50%	1230470		
6	2016-17	22608937	25219995	22317820	25219995	0	14.50%	0	3346290	436709
7						25219995	15%	3782999		
8	2017-18 (upto June)	9183336		8901480	9183336	9183336	15%	1377500	1335981	41515
9	Total	76930981	64947261.62	72162979	84478079.62	84478080		11711981	10010163	1701818

3. Reply dated 06.11.2019 was submitted. The Adjudicating Authority observed that the claim of the Appellant assessee regarding the Service Tax liability on GTA Services is covered by Notification No.30/2012-ST dated 20.06.2012 and the Service Tax Rule 2(1)(d)(B) and held that the amount reflected in Form-26AS Statement for the Financial Year 2013-14 (October-March) to 2017-18 (upto June) received from M/s Prism Johnson Ltd. are exempted from Service Tax liability since 100% tax liability is on service recipient i.e. M/s Prism Johnson Ltd., and accordingly he held that the Appellant assessee is not liable to pay any Service Tax on the amount received i.e. Rs.41,05,215/- for the period under dispute and accordingly he re-computed Service Tax liability as per the table below:-

Period	Gross receipt as per 26AS	Gross receipt as per Balance sheet	Higher value taken for consideration of tax liability	Cum-tax value	Gross value of GTA service	Gross value of Discount	Net Taxable value	Service Tax @	S.Tax payable	Service Tax paid	Short payment of S.Tax
1	2	3	4	5	6	7	8 =(4-5-6-7)	9	10	11	12
2013-14 (Oct,13 to March,14)	10347482	-	10347482	636914	1152405	0	8558163	12.36%	1057789	1057794	-5
2014-15	18045128	20226502	20226502	0	2440117	1529250	16257135	12.36%	2009382	1929043	80339
2015-16	16746098	19500765	0	0	0	0	0	12.36%	0	2341055	45327
			11014764	0	0	553290	10461474	14.00%	1464606		
			8486001	0	42930	2085998	6357073	14.50%	921776		
2016-17	22608937	25219995	0	0	0	0	0	14.50%	0	3346290	1559
			25219995	0	183608	2717393	22318994	15.00%	3347849		
2017-18 ([illegible].17)	9183336	-	9183336	0	286155	0	8897181	15.00%	1334577	1335981	-1404
Grand Total							72850020		10135979	10010163	127225

and confirmed the demand of Rs.1,27,225/- alongwith applicable interest and imposed penalty of equal amount under Section 78 of the Finance Act, 1994.

4. Being aggrieved, the Appellant filed appeal before the first Appellate Authority and the learned Commissioner (Appeals) vide the impugned Order-in-Appeal modified the Order-in-Original by observing as under:-

> *"4.3 As regards to appellant contention that during the F.Y. 2015-16, there are three service tax rates i.e. for the period April'2015 to May'2015 @12.36%, June'2015 to 14.11.2015 @14% and 15.11.2015 to March'2016 @ 14.5%, I find that the adjudicating authority has calculated service tax on the taxable value Rs.1,04,61,474/- @ 14% and on taxable value Rs.63,57,073/- @ 14.5% whereas as per record submitted by the appellant they have received taxable amount Rs.25,69,494/- during the period April'2015 to May'2015 which attracts service tax @12.36% only. Similarly, the appellant has received taxable amount of Rs.73,63,375/- during the period June'2015 to 14th Nov'2015 & Rs.68,85,678/- during the period 15th Nov'2015 to March'2016 which attracts service tax rate 14% & 14.5% respectively. Thus, the appellant is liable to pay service tax amounting to Rs.23,46,885/- only instead of Rs.23,86,382/- as determined by the adjudicating authority. Therefore, the service tax liability*

during the F.Y. 2015-16 on the appellant is reduced by an amount of Rs.39,497/-

5. In view of the above, I modify the impugned order dated 14.01.2020, as under:

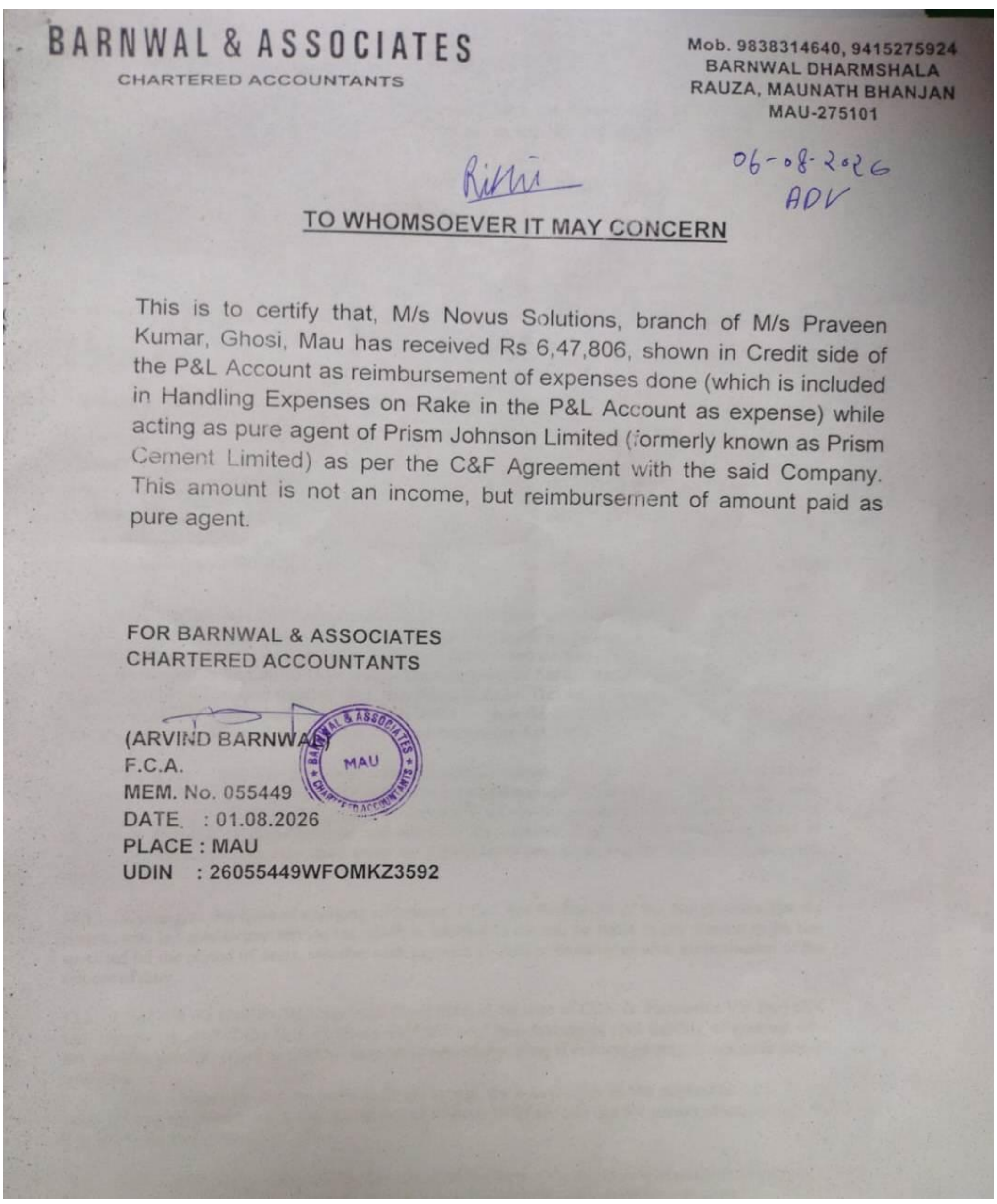
(i) Confirmation of the demand of Service Tax (including Cesses) is reduced to Rs.87,728/- along with interest; and

(ii) Penalty imposed under Section 78 of the Act, is reduced to Rs.87,728/-."

5. Being still aggrieved, the Appellant has filed the present appeal before the Tribunal.

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

7. I find that an amount of Rs.6,47,806/- received as reimbursement of expenses from the M/s Prism Cement Ltd., /Prism Johnson Ltd against the expenses incurred during the Financial Year 2014-15. I further find that the Appellant has filed a certificate from the Chartered Accountant which is reproduced as under:-



BARNWAL & ASSOCIATES
CHARTERED ACCOUNTANTS

Mob. 9838314640, 9415275924
BARNWAL DHARMSHALA
RAUZA, MAUNATH BHANJAN
MAU-275101

06-08-2026
ADV

TO WHOMSOEVER IT MAY CONCERN

This is to certify that, M/s Novus Solutions, branch of M/s Praveen Kumar, Ghosi, Mau has received Rs 6,47,806, shown in Credit side of the P&L Account as reimbursement of expenses done (which is included in Handling Expenses on Rake in the P&L Account as expense) while acting as pure agent of Prism Johnson Limited (formerly known as Prism Cement Limited) as per the C&F Agreement with the said Company. This amount is not an income, but reimbursement of amount paid as pure agent.

FOR BARNWAL & ASSOCIATES
CHARTERED ACCOUNTANTS

(ARVIND BARNWAL)
F.C.A.
MEM. No. 055449
DATE : 01.08.2026
PLACE : MAU
UDIN : 26055449WFOMKZ3592

8. The relevant Rule 5 of the Service Tax (Determination of Value) Rules, 2006 is reproduced as under:-

> ***"RULE 5. Inclusion in or exclusion from value of certain expenditure or costs. —*** *(1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.*
>
> *[**Explanation**.- For the removal of doubts, it is hereby clarified that for the [the value of the telecommunication service shall be the gross amount paid by the person to whom telecommunication service is actually provided].]*
>
> ***(2) Subject to the provisions of sub-rule (1), the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely :-***
>
> *(i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;*
>
> *(ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;*
>
> *(iii) the recipient of service is liable to make payment to the third party;*
>
> *(iv) the recipient of service authorises the service provider to make payment on his behalf;*
>
> *(v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;*
>
> *(vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;*

(vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and

(viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation 1. *- For the purposes of sub-rule (2), "pure agent" means a person who -*

(a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;

(b) neither intends to hold nor holds any title to the goods or services so procured or provided as pure agent of the recipient of service;

(c) does not use such goods or services so procured; and

(d) receives only the actual amount incurred to procure such goods or services.

Explanation 2. *- For the removal of doubts it is clarified that the value of the taxable service is the total amount of consideration consisting of all components of the taxable service and it is immaterial that the details of individual components of the total consideration is indicated separately in the invoice."*

9. I find that since the expenses incurred by the Appellant assessee as pure agent of M/s Prism Cement Ltd.,/Prism Johnson Ltd. for the Financial Year 2014-15, have been reimbursed by the service receiver and the service provider has recorded and adjusted the amount in his Books of Accounts (such amount has been paid by him to the third party). This transaction is squarely covered by the provision of Rule 5 (2) as reproduced above.

10. In view of the above discussions, the demand of Rs.87,728/- cannot be sustained and is accordingly set aside.

Since the demand itself has been set aside there would not be any liability of interest and the penalty imposed under Section 78 is also set aside. The appeal filed by the Appellant is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in open court)

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

LKS