CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No.70348 of 2024

(Arising out of Order-in-Appeal No.1121-ST/APPL/LKO/2022 dated 09/12/2022 passed by Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow)

M/s Madam Maya Devi, **.....Appellant**
(H No.301, Sitapur Road, Moh Barkherwa,
Lakhimpur, Uttar Pradesh-262701)

VERSUS

Commissioner, CGST & Central Excise, Lucknow

....Respondent

(7-A Ashok Marg GST Bhawan
Lucknow, Uttar Pradesh 226001)

APPEARANCE:
Shri S. A. Khan, Consultant for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

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

FINAL ORDER NO.70274/2026

DATE OF HEARING : 08.07.2026
DATE OF DECISION : 11.08.2026

K. ANPAZHAKAN:

The present appeal has been filed by the Madam Maya Devi (hereinafter referred to as Appellant) assailing the Order-In-Appeal No. 1121-ST/APPL/LKO/2022 dated 09/12/2022 passed by Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow wherein the demand of Rs.12,11,451/- has been confirmed against the Appellant along with interest. Penalty imposed under Section 78 was also confirmed.

2. The facts of the case are that the Appellant is a provider of Works Contract service, having service tax registration no. AHOPD8119JSD001. During the relevant period of 2016-17, the Appellant mainly provided works contract service to M/s Rajya

Krishi Utpadan Mandi Parishad, Uttar Pradesh, in relation to construction, repair and painting of shops pertaining to Mandi Samiti, Lakhimpur. M/s Rajya Krishi Utpadan Mandi Parishad Uttar Pradesh and Mandi Samiti Lakhimpur are 'Governmental Authorities'. Under the bonafide belief that Works Contract service provided to them to Governmental Authorities are exempt from payment of service tax under Entry No. 60 of Notification No. 25/2012-ST, dated 20.06.2012, the Appellant did not pay service tax.

2.1. Show Cause Notice No. 352/AC/CGST/Sitapur/R-lakhimpur/2021 was issued to Appellant demanding service tax of Rs. 48,33,913/- under the proviso to Section 73 of the Finance Act, 1994 along with interest. The Notice also proposed imposition of penalty under section 78 along with various other penalties. Appellant filed defense reply contesting the demand of tax and penalty etc. on the ground of the service rendered by them to the Government authorities are exempt from payment of service tax. Appellant submitted all the agreements/work orders etc.

2.2. On adjudication, Order-In-Original No. 87/AC/ST/STP/2022 was passed, wherein the demand of tax service tax of Rs. 31,03,269/- has been dropped and balance amount of Rs. 17,30,644/- was confirmed along with interest under the Proviso to Section 73(1) of the Finance Act, 1994. The Ld. Adjudicating Authority has held that services provided to Mandi Samiti Lakhimpur/Rajya Krishi Utpadan Mandi Samiti Uttar Pradesh are not exempt from payment of service tax.

2.3. Appellant filed Appeal No. 424-ST/2022 before Commissioner (Appeals), Lucknow submitting therewith that service provided by them was exempt. Imposition of penalty under section 78 was assailed on the ground that there was complete absence of the element of fraud, suppression etc. The Ld. Commissioner (Appeals) passed the impugned Order-in-Appeal No. 1121-ST/APPL/LKO/2022 dated 09.12.2022, wherein he has reduced the demand of service tax from Rs. 17,30,644/- to Rs. 12,11,451/- by giving benefit of abatement of 30% being repair work and upheld penalty U/s 78 of the Finance Act. Other penalties were set aside.

2.4. Aggrieved against the confirmation of the demand s of service tax along with interest and penalty, the Appellant has filed this appeal.

3. The learned Counsel for the Appellant submits that the Department has confirmed the demand of Service Tax on certain services rendered by the, which are tabulated below:

S. No.	Payment received from	Description of Service	Value of Service	Tax demanded
1.	Rajya Krishi Utpad Mandi Parishad, Lakhimpur	Painting and repair work of Mandi Shops	1,12,67,624	11,83,101
2.	Allahabad Bank, Lakhimpur	Rental Income	2,70,000	28,350
			Total=	**12,11,451**

4. Rajya Krishi Utpad Mandi Parishad, Lakhimpur:-

Appellant provided the services of Works Contract to Rajya Krishi Utpad Mandi Parishad/Mandi Samiti by way of construction, repairing and painting of shops pertaining to Mandi Samiti Lakhimpur. Rajya Krishi Utpad Mandi Parishad and Mandi Samiti are "GOVERNMENTAL AUTHORITIES" as they were set up by an Act of state legislature viz. UTTAR PRADESH KRISHI UTPADAN MANDI ADHINIYAM, 1964.

Mandi Samiti has been constituted by Section 12 of the said Act which is extracted below:

> *"12. (1) For every Market Area there shall be a Committee to be called the* ***Mandi Samiti*** *of that Market Area, which shall be a* ***body corporate*** *having perpetual succession and*

an official seal and, subject to such restrictions or qualifications, if any, as may be imposed by this or any other enactment, may sue or be sued in its corporate name and acquire, hold and dispose of property and enter into contracts:

Provided that the Committee shall not transfer any movable property except in accordance with a resolution duly passed at any of its meetings by a majority of not less than three-fourths of the total number of its members and with the previous approval in writing of the Board.
(2) The Committee shall be deemed to be a local authority for the purposes of Land Acquisition Act, 1894 and any other law for the time being in force."

4.1. Similarly, the Rajya Krishi Utpad Mandi Parishad Uttar Pradesh has been constituted by Section 26A of the said Act, which is extracted as under:

"26A (1) The State Government shall by notification in the Gazette, and with effect from a date to be specified therein, constitute a Board by the name of the ***<u>State Agricultural Produce Market Board</u>*** *with its head office at Lucknow.*

(2) The Board shall be a ***<u>body corporate</u>*** *by the said name having perpetual succession and a common seal and any Sue or the sued by the said name and acquire, hold and dispose of property and enter Into contracts.*

(3) The Board shall for all purposes be deemed to be a local authority."

4.2. 'Governmental Authority' has been defined under Notification No. 25/2012-ST dated 20.06.2012 which reads as under:

"(s) "*Governmental authority'' means a board, or an authority or any other body:*

(i) ***<u>set up by an Act of the Parliament or a State Legislature</u>*** *or*

(ii) *established by government,*
with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution."

4.3. Thus, the Appellant submits that the Rajya Krishi Utpadan Mandi Parishad Uttar Pradesh and Mandi Samiti are 'Governmental Authorities' and, therefore, services provided to them are exempt under Entry No. 60 of Notification No. 25/2012-ST dated 20.06.2012.

4.4. Entry No 60 of the Notification No 25/2012–ST dated 20.06.2012 provides for exemption from service tax to the following;

> *"60. Services by Government, a local authority or a* ***governmental authority*** *by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution;"*

4.5. The above entry provides full exemption from service tax to;

(a) Services by the Government, a local authority, or a **governmental authority**,

(b) By way of **any activity in relation to a function,** entrusted to a Panchayat under **Article 243G** of the Constitution (11th Schedule).

4.6. The Appellant submits that Rajya Krishi Utpad Mandi Parishad Uttar Pradesh and Mandi Samiti are engaged in facilitating marketing of agricultural produce of farmers at Mandi Samiti shops where agricultural produce brought by farmers are sold with the help of Mandi Samiti and for such help Mandi Samiti charges 'Mandi Shulk' from farmers. Thus, it falls under Sl. No. 1 of the functions entrusted to a Panchayat under Article 243G of the Constitution (11th Schedule). Therefore, the Appellant submits that service tax demanded for construction, painting and repair charges of Mandi Shops paid by Rajya Krishi Utpad Mandi

Parishad Uttar Pradesh to the Appellant is not sustainable and liable to be set aside.

4.7. Notwithstanding the above claim of exemption, the Appellant further contended that that if exemption is not granted to the Appellant, then RCM should be applied under Notification No. 30/2012-ST dated 20.06.2012 and only 50% of tax should be demanded from the Appellant because Rajya Krishi Utpadan Mandi Parishad and Mandi Samiti are body corporates as per Section 12 and 26A of Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964.

5. Regarding the demand of Service Tax of Rs.2,70,000/- confirmed on the rent received by the Appellant from Allahabad Bank, the Appellant submits that the taxable value received by them for the Financial Year 2015-16 is less than Rs. Rs. 10 Lakh. Accordingly, the amount received by them during the Financial Year 2015-16 is exempted under Notification No. 33/2012-ST dated 20.06.2012. In view of the above submissions, the demand of Service Tax amounting to Rs. 28,350/- on the amount of Rs. 2,70,000/- received as rent is liable to be set aside.

6. The Appellant also contested demand on the ground of limitation. It is the submission of the Appellant that extended period of limitation under proviso to Section 73(1) of Finance Act, 1994 is not invokable against the Appellant in absence of element of fraud, suppression etc. In the present case, the issue pertains to interpretation of statutory provisions whether Entry No 60 of Notification No. 25/2012-ST is applicable or not. No evidence of suppression or fraud etc. has been adduced by the department. Moreover, the Appellant has been filing ST-3 returns regularly. Therefore, the **entire demand is time barred**. AS the suppression of fact with intention to evade the tax is not established, penalty under Section 78 of Finance Act, 1994 is not sustainable. Reliance in this regard is placed on following case laws:

- The decision of Hon'ble Supreme Court in case of UNIWORTH TEXTILES LTD. Vs CCE, Raipur reported in 2013 (288) E.L.T.161(S.C.)
- Hon'ble High Court of Delhi in case of BHARAT HOTELS LTD. Vs Commissioner of C. Ex. [2018 (12) G.S.T.L. 368 (Del)]
- The Hon'ble Supreme Court in case of CCE Vs M/s Reliance Industries in Civil Appeal No. 6033 of 2009 judgment delivered on 04 July, 2023.

7. Learned Authorized Representative for the Revenue submits that services provided to Mandi Samiti Lakhimpur/Rajya Krishi Utpadam Mandi Parishad Uttar Pradesh by way of repairing and painting of shops pertaining to Mandi Samiti Lakhimpur is not exempt from payment of service tax. The Ld. Commissioner (Appeals) confirmed the demand holding that it is taxable work contract service and allowed abatement of 30% under Rule 2A(ii)(b) of Service Tax (Determination of Value) Rules, 2006.

7.1. Learned Authorized Representative further submits that on the very same issue this Tribunal has decided that such services provided are not exempted from Service Tax vide Final Order No.70797 of 2025 dated 13.11.2025 in the case of M/s Ganpati Mega Builders India Pvt. Ltd. V/s Commissioner, CGST & Central Excise, Agra. Accordingly, learned Departmental Representative submits that demand confirmed in the impugned order is sustainable.

8. Heard both the sides and perused the appeal documents.

9. We find that the Appellant has rendered the services of 'Works Contract Service' by way of repairing and painting of shops pertaining to Mandi Samiti Lakhimpur of Rajya Krshi Utpad Mandi Parishad/Mandi Samiti. The Appellant considered that the said entities comes under the category of Governmental Authorities and the Works Contract services rendered to them are exempted from payment of service tax, as provided under Notification No.

25/2012-ST dated 20.06.2012. Accordingly, Appellant did not pay Service Tax.

9.1. From the impugned order, we observe that the learned Adjudicating Authority has considered the entities such as Rajya Krshi Utpad Mandi Parishad/Mandi Samiti as 'Governmental Authorities', as they were set up under an passed by the State Legislature. However, the Lower Authorities have not extended the benefit of exemption from service tax as provided under Entry No. 60 of the Notification No. 25/2012-ST dated 20.06.2012, on the ground that the services rendered by them do not fall under the category of services as mentioned in Entry No.60 of the Notification No 25/2012–ST dated 20.06.2012.

9.2. We find that the Ld. Commissioner (Appeals) has accepted that the Appellant has rendered services to 'Government Authorities'. Thus, we find that the Appellant has rendered the 'Works Contract' services to Government Authorities, is not in dispute. However, the exemption provided under Entry No.60 of the Notification No 25/2012–ST dated 20.06.2012 has not been extended to them.

9.3. We find that exemption from services rendered to Governmental authorities are provided under various entries of Notification No 25/2012–ST dated 20.06.2012. In the proceedings before the lower authorities, the Appellant has claimed the exemption from service tax provided under Serial No. 12(a), 12(c), 12(d), 12(c), 13(a), 25(a), 12A(a) & (b) of Notification No. 25/2012 dated 20.06.2012, as amended. When the lower authorities denied the exemption claimed by the Appellant under those Serial Numbers, the Appellant found that the services rendered by them are covered under another Sl. No. 60 of the Notification. 25/2012 dated 20.06.2012. Thus, we find that the Appellant has raised this claim of exemption under the Sl. No 60, for the first time, only before the Tribunal. As it is a legal issue, we observe that the Appellant is entitled to stake the claim for the eligibility of exemption under Sl. No.60, at any time. If the Appellant is otherwise eligible for the exemption, it cannot be denied to them on the ground that it was not raised earlier. Accordingly, we would like to examine the eligibility of the exemption to the 'Works Contract Service' rendered by the Appellant by way of repairing and painting of shops pertaining to Mandi Samiti Lakhimpur of Rajya Krshi Utpad Mandi Parishad/Mandi Samiti, under Entry No.60 of the Notification. 25/2012 dated 20.06.2012.

9.4. We have gone through Entry No.60, which is reproduced below for ready reference:

> *"60. Services by Government, a local authority or a **governmental authority** by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution;"*

9.5. The functions assigned to a **Panchayat** under eleventh schedule (Article 243G) are listed as below;

> ***"Eleventh schedule*** *of Indian Constitution contains the following functional items placed within the purview of the Panchayats**:***
>
> ***1. Agriculture, including agricultural extension****.*
> *Land improvement, implementation of land reforms, land Consolidation and soil conservation.*
> ……………………………………………….
>
> ……………………………………………….

9.6. From the functions assigned to panchayats under eleventh schedule as listed above, we find that the activities relating to promoting agriculture including agricultural extension are functions entrusted to a Panchayat under Article 243G of the Constitution. We find that Rajya Krshi Utpad Mandi Parishad/Mandi Samiti are facilitating the marketing of the agricultural produce of the farmers. Thus, we find that the Works Contract services rendered by the Appellant by way of repairing and painting of shops pertaining to Mandi Samiti Lakhimpur of

Rajya Krshi Utpad Mandi, are in relation to promoting the marketing activity of agricultural produce by the farmers, which fall within the ambit of Article 243G of the Constitution. Thus, we are of the view that the Works Contract services rendered by the Appellant are exempted from payment of service tax as per Entry No.60 of the Notification No 25/2012–ST dated 20.06.2012. Accordingly, we hold that the Appellant are eligible for exemption as per Entry No.60 of the Notification No 25/2012–ST dated 20.06.2012 and hence the demand confirmed by the impugned order by not allowing the exemption as per Entry No.60 of the Notification No 25/2012–ST dated 20.06.2012 is not sustainable.

9.7. We find that learned Authorized Representative has submitted a decision of this Bench in the case of M/s Ganpati Mega Builders India Pvt. Ltd. (Supra) wherein on similar facts and circumstances the said Appellant was denied exemption as provided under Notification No.25/2012-ST. On perusal of the said order, we find that the Appellant has claimed the exemption under Serial No. 12(a), 12(c), 12(d), 12(c), 13(a), 25(a), 12A(a) & (b) of Notification No. 25/2012 dated 20.06.2012, as amended. It is a fact on record that the eligibility of the exemption to the said services under Serial 60 of the Notification No. 25/2012 dated 20.06.2012 has not been examined by this Bench earlier, as the same was not claimed by the Appellant. Accordingly, we find that the fact and circumstances of the order cited by the Ld. A.R. are distinguishable with the facts and circumstances of the present case. Thus, we are of the view that decision sited by learned Authorized Representative in M/s Ganpati Mega Builders India Pvt. Ltd. (Supra) is not applicable to the facts of the present case.

10. We find that the Appellant has contested the demands confirmed in the impugned order on the ground of limitation also. We find that the issue involved in the present appeal pertains to interpretation of statutory provision, whether Entry No.60 of Notification No. 25/2012-ST is appliable to the services rendered by the Appellant or not. We are of the view that no allegation of suppression with an intent to evade payment of duty can attributed in respect of issues involve interpretation of the

Notifications. Further, we find that there is no evidence of suppression or fraud or collusion or mis-statement has been adduced by the Department. Moreover, the Appellant has been filing ST-3 Returns regularly and disclosing all the information in the returns filed. We find that the Show Cause Notice in this case has been issued on 21.10.2021 covering the period from 2016-17. Thus, we observe that the entire demand has been raised by invoking extended period of limitation. As the allegation of suppression with an intent to evade payment of duty has not been established in this case, we hold that the entire demand confirmed in the impugned order is barred by limitation. In support of this view, we place our reliance on the decision of the Hon'ble Supreme Court in the case of Uniworth Textiles Ltd. Vs CCE, Raipur Reported In 2013 (288) E.L.T.161(S.C.). Relevant paragraphs of the judgement are reproduced below:-

> **"25.** Moreover, this Court, through a catena of decisions, has held that the proviso to Section 28 of the Act finds application only when specific and explicit averments challenging the *fides* of the conduct of the assessee are made in the show cause notice, a requirement that the show cause notice in the present case fails to meet. In *Aban Loyd Chiles Offshore Limited and Ors.* (supra), this Court made the following observations :
>
> "21. This Court while interpreting Section 11-A of the Central Excise Act in *Collector of Central Excise* v. *H.M.M. Ltd.* (supra) has observed that in order to attract the proviso to Section 11-A(1) it must be shown that the excise duty escaped by reason of fraud, collusion or willful misstatement of suppression of fact with intent to evade the payment of duty. It has been observed :
>
> *'...Therefore, in order to attract the proviso to Section 11-A(1) it must be alleged in the show-cause notice that the duty of excise had not been levied or paid by reason of fraud, collusion or willful misstatement or suppression of fact on the part of the assessee or by reason of contravention of any of*

the provisions of the Act or of the Rules made thereunder with intent to evade payment of duties by such person or his agent. There is no such averment to be found in the show cause notice. There is no averment that the duty of excise had been intentionally evaded or that fraud or collusion had been practiced or that the assessee was guilty of wilful misstatement or suppression of fact. In the absence of any such averments in the show-cause notice it is difficult to understand how the Revenue could sustain the notice under the proviso to Section 11-A(1) of the Act.'

It was held that the show cause notice must put the assessee to notice which of the various omissions or commissions stated in the proviso is committed to extend the period from six months to five years. That unless the assessee is put to notice the assessee would have no opportunity to meet the case of the Department. It was held :

...There is considerable force in this contention. If the department proposes to invoke the proviso to Section 11-A(1), the show-cause notice must put the assessee to notice which of the various commissions or omissions stated in the proviso is committed to extend the period from six months to 5 years. Unless the assessee is put to notice, the assessee would have no opportunity to meet the case of the department. The defaults enumerated in the proviso to the said sub-section are more than one and if the Excise Department places reliance on the proviso it must be specifically stated in the show-cause notice which is the allegation against the assessee falling within the four corners of the said proviso...." (Emphasis supplied)

26. Hence, on account of the fact that the burden of proof of proving *mala fide* conduct under the proviso to Section 28 of the Act lies with the Revenue; that in furtherance of the same, no specific averments find a mention in the show cause notice which is a mandatory requirement for commencement of action under the said proviso; and that nothing on record displays a wilful default on the part of the appellant, we hold that the extended period of limitation under the said provision could not be invoked against the appellant."

10.1. By relying on the decision of the Hon'ble Supreme Court cited, we hold that the demand confirmed by invoking extended period of limitation is not sustainable. Accordingly, we hold that the demand confirmed in the impugned order is liable to be set aside on the ground of limitation also. As the demand itself is not sustainable the question of demanding interest and imposition of penalties does not arise and hence, we set aside the same.

11. Regarding the demand or Rs.28,350/- confirmed on the amount of Rs.2,70,000/- received as rent from Allahabad Bank, we find that gross taxable value of the Appellant for the Financial Year 2016-17 is only Rs.2,70,000/-. All other amount received by them are exempted and hence the same cannot be included in the gross value for the purpose of computation of taxable value for the Financial Year 2016-17. As the taxable value for the Financial Year 2016-17 is less than 10 Lakhs, we hold that the Appellant is eligible for threshold exemption for the Financial Year 2016-17. Thus, we hold that the demand of Rs.28,350/- confirmed on rent received is not sustainable and hence we set aside the same.

12. In view of the above findings, we set aside the impugned order and allow the Appeal filed by the Appellant with consequential relief, if any, as per law.

(Pronounced in open court on 11.08.2026)

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

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Nihal