

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

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 23707 of 2014

(Arising out of Order-in-Appeal No.716/2014 dated 20.10.2014
passed by the Commissioner of Service Tax (Appeals), Bangalore.)

**M/s. Bovis Lend Lease India
Private Limited**

C/o No.41, 3rd Main, AECS Layout,
2nd Stage, Nagashettihalli, Sanjaynagar,
Bangalore - 560 094.

Appellant(s)

VERSUS

**The Commissioner of Service
Tax**

TTMC, BMTC Building,
Above BMTC Bus Stand,
Domlur,
Bangalore - 560 071.

Respondent(s)

APPEARANCE:

Shri N. Anand, Advocate for the Appellant

Shri Rajashekar B.N.N, Superintendent (Authorised Representative) for
the Respondent

CORAM:

**HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

Final Order No. 21848 / 2025

DATE OF HEARING: 18.11.2025

DATE OF DECISION: 18.11.2025

PER : P.A. AUGUSTIAN

The issue in the present appeal regarding service tax liability on the advance amount received by the appellant on 16.8.2005 and whether demand beyond the period of limitation is sustainable. Appellant is executing turnkey and composite works contract for M/s. Unisys India Pvt. Ltd. and the same project was completed during July 2006. For execution of the project, appellant had received an amount of Rs.75,00,000/- as

advance on 16.8.2005 and when the service was provided, an invoice was issued on 3.7.2006 for Rs.55,01,419/- and paid appropriate service tax. Appellant had filed ST-3 returns for the relevant period. However, during audit it is observed that the appellant had received advances on 16.8.2005 but paid service tax only for an amount of Rs.55,01,419/- on 3.7.2006. Since the appellant had not paid service tax on the entire amount of advance received by them, demand was made and show-cause notice was issued on 23.4.2011 for the period August 2005 Adjudicating Authority as per the Order-in-Original confirmed the demand and imposed penalty under Section 77 of the Finance Act, 1994. Aggrieved by the said order, an appeal was filed before learned Commissioner (A), who upheld order of the lower authority. Hence, the present appeal.

2. When the appeal came up for hearing, the learned counsel for the appellant submits that the demand is barred by limitation. As per the impugned order, an advance of Rs.75,00,000/- was received on 16.8.2005 and the appellant had filed ST-3 returns on 26.10.2005 and also drew our attention to the returns submitted by them; thus, the show-cause notice issued on 23.04.2011 is barred by limitation. Further, learned counsel submits that even in the findings of the adjudicating authority there is no intention on the part of the appellant to evade tax and only due to that reason the adjudicating authority refrained from imposing penalty under Section 76 and 78 of the Finance Act, 1994; thus, the question of invoking the extended period of limitation is unsustainable. In this regard, the learned counsel relied on the following decision:

- **Indian Institute of Chemical Technology vs. CCE: 2010 (17) STR 420 (Tri.-Bang.) affirmed by Hon'ble Andhra Pradesh High Court in 2012 (26) STR 97 (AP)**
- **CCE v. Rajasthan Renewable Energy Corporation Ltd, 2018 (13) GSTL 661 (Raj.) affirming the decision of this Tribunal in 2017 (51) STR 269 (Tri-Del.).**
- **Sankhla Udyog v. CCE, 2015 (38) STR 62 (Tri-Del.).**
- **Azad Construction Co v. CCE, 2017 (49) STR 77 (Tri-Del.)**

3. Learned Authorised Representative (AR) for the Revenue reiterated the findings in the impugned order.

4. Heard both sides. We find that adjudicating authority in the Order-in-Original dated 26.04.2012 made following observations:

“8. The contention of the assessee may be accepted, as they have paid major portion of the Service Tax liability by leaving a short payment of Rs.91,627/-. Hence, it appears that there is no intention to evade payment of Service Tax.”

5. In view of the above categorical finding by the adjudicating authority that there was no suppression of facts and appellants have been filing ST-3 Returns regularly and also in view of the fact that the show cause notice was issued on 23.04.2011 for the period 04/2005 to 09/2006, demand is barred by limitation. Accordingly, the impugned order is set aside and the appeal is allowed on limitation without going into merit of the case.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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