CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 245 of 2016

[Arising out of Order-in-Appeal No. JAL-EXCUS-000-APP-264-15-16 dated 13.01.2016passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh-II]

M/s Bharat Box Factory Ltd. **......Appellant**
Village Bhamian Kalan Tajpur Road,
Ludhiana, Punjab

VERSUS

Commissioner of Central Excise & Service Tax, Ludhiana **......Respondent**
GST Bhawan, F-Block, Rishi Nagar,
Ludhiana, Punjab-141001

APPEARANCE:

Shri Naveen Bindal, Advocate for the Appellant
Shri Goverdhan Dass Bansal, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60773/2025

DATE OF HEARING: 01.07.2025
DATE OF DECISION: 10.07.2025

P.ANJANI KUMAR:

The appellants, M/s Bharat Box Factory Ltd, are having manufacturing unit situated at village Bhamian Kalan, Tejpur road, Ludhiana; the appellant had a premises at Beantpura, Ludhiana which was given on rent during the relevant period; the appellants did not pay service tax on the amounts received as rent under the belief that the amount received in a financial year is less than the threshold provided under the Notification No.06/2005. On the other hand, Revenue entertains an opinion that the appellant wrongly availed small-scale benefit as the appellants were availing credit of inputs/ input services/ capital goods at the manufacturing facility; a show cause notice dated 28.09.2012 was issued to the appellants seeking to demand service tax of Rs.1,56,849/- along with interest and penalty invoking extended period; Order-in-Original dated 05.12.2013 confirmed the proposals. On an appeal preferred by the appellants, learned Commissioner (Appeals) upheld the service tax demanded while restricting the penalties to Rs.5000/- under Section 77 and equal penalty under Section 78 and setting aside penalty imposed under Section 76. Hence, this appeal.

2. Shri Naveen Bindal, learned Counsel for the appellants submits that the appellants did not avail any credit on input or input services used for providing the taxable services i.e rental services on the disputed renting; the said premises were a separate premises providing renting of immovable property services had no relation with the manufacturing unit at a different place; therefore, the allegation of availing CENVAT Credit on input services is not valid. Learned Counsel also submits that the appellants had a bona fide belief that they were not liable to pay service tax and hence did not obtain registration and did not pay the service tax; no facts have been suppressed and there is no mala fide intent to evade payment

of tax and therefore, extended period cannot be invoked. He relies on Uniworth Textiles Ltd. – 2013 (288) ELT 161 (SC).

3. Learned Authorized Representative for the Department reiterates the findings of the impugned order.

4. Heard both sides and perused the records of the case. We find that the period covered is 2007-08 to 2010-11 and the show cause notice has been issued on 28.09.2012 invoking extended period. We find that the show cause notice invoked the extended period in a mechanical manner alleging that since the said service tax was not paid by reason of suppression of material facts and in contravention of the provisions of the Act and the Rules made thereunder with intent to evade payment of service tax liability, Noticee were required to be served with show cause notice for the recovery of the said service tax liability along with interest and for imposition of penalty by invoking the extended period of limitation in terms of proviso to Section 73(1) of the Act.

5. We find that without even citing the circumstances and the acts of commission and omission on the part of the appellant which lead to the assumptions that there was suppression of fact, the show cause notice proceeds to assume that there was suppression of fact. No evidence, whatsoever, has been put forth to even allege the suppression etc. with intent to evade payment of tax. We find that in a catena of judgments, CESTAT and the Hon'ble High Courts

have held mere non-obtaining the registration and mere non-payment of tax does not amount to suppression of facts etc. with intent to evade payment of tax. In the instant case as no ingredients to establish the suppression of facts, fraud, collusion, mis-declaration are present, we are of the considered opinion that extended period cannot be invoked. We hold that the appeal succeeds on limitation itself and therefore, there is no need to go into the merits of the case.

6. In view of the above, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law.

(Order pronounced in the open court on 10/07/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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