CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 621 of 2012

[Arising out of Order-in-Original No. CHD-CEX-001-COM-011-13-12 dated 22.02.2012 passed by the Commissioner of C. Ex. & S.T., Chandigarh-I]

Commissioner of Central Excise, Goods & Service Tax, Chandigarh-I **......Appellant**
Plot No. 19, Central Revenue Building,
Sector 17-C, Chandigarh 160017

VERSUS

Punjab Roadways through Director State Transport **......Respondent**
Office of the Directorate State Transport,
1st Floor, Jeevandeep Building,
Sector 17, Chandigarh 160017

WITH

Service Tax Appeal No. 699 of 2012

[Arising out of Order-in-Original No. CHD-CEX-001-COM-011-13-12 dated 22.02.2012 passed by the Commissioner of C. Ex. & S.T., Chandigarh-I]

Director State Transport **......Appellant**
Office of the Directorate State Transport,
1st Floor, Jeevandeep Building,
Sector 17, Chandigarh 160017

VERSUS

Commissioner of Central Excise, Goods & Service Tax, Chandigarh-I **......Respondent**
Plot No. 19, Central Revenue Building,
Sector 17-C, Chandigarh 160017

AND

Service Tax Appeal No. 51802 of 2014

[Arising out of Order-in-Original No. CHD-CEX-001-COM-011-13-12 dated 22.02.2012 passed by the Commissioner of C. Ex. & S.T., Chandigarh-I]

Director State Transport **......Appellant**
Office of the Directorate State Transport,
1st Floor, Jeevandeep Building,
Sector 17, Chandigarh 160017

VERSUS

Commissioner of Central Excise, Goods & Service Tax, Chandigarh-I **......Respondent**
Plot No. 19, Central Revenue Building,
Sector 17-C, Chandigarh 160017

APPEARANCE:

Shri Piyush Kant Jain, Advocate for the Assessees
Shri Saurabh Goel, Special Counsel (Authorized Representative) for the Revenue

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

FINAL ORDER NO. 61023-61025/2025

DATE OF HEARING: 02.05.2025
DATE OF DECISION: 29.08.2025

S. S. GARG :

These three appeals, i.e. one appeal filed by the Revenue and other two appeals filed by the assessees, are directed against a common impugned order dated 22.02.2012 passed by the Commissioner of Central Excise & Service Tax, Chandigarh-I.

1.1 Vide the impugned order, the learned Commissioner has passed the following order:

- confirmed the demand of service tax of Rs.5,04,49,559/- for the normal period (i.e. 01.04.2009 to 31.03.2010) under Section 73 of the Finance Act, 1994 along with interest under Section 75 of the Act in respect of SCN dated 07.10.2010

- vacated the remaining demand of Rs.17,92,27,587/- for the extended period (i.e. 01.04.2005 to 31.03.2009) in respect of SCN dated 07.10.2010.

- confirmed the demand of service tax of Rs.1,40,07,253/- under Section 73 of the Act along with interest under Section 75 of the Act in respect of SCN dated 29.03.2011.

- confirmed the demand of Rs.2,31,45,422/- under Section 73 of the Act along with interest under Section 75 of the Act in respect of SCN dated 14.09.2011.

- dropped the penalties under Sections 76, 77 and 78 as proposed in all SCNs, under Section 80 of the Act.

1.2 Since all three SCNs were disposed of by a common adjudication order and the issue involved is identical, therefore, all three appeals are taken up together for the purpose of discussion and disposal.

2. Briefly stated facts of the case are that three SCNs were issued to M/s Punjab Roadways ('the assessees') on common allegations that the assessees had provided services in the category of 'Manpower Recruitment or Supply Agency's Services' to M/s Punjab State Bus Stand Management Company Ltd ('PUNBUS'). Details of all three SCNs are herein below in tabular form:

S. No.	**SCN No. & Date**	**Period involved**	**Amount involved (in Rs.)**
1.	IV(HQ)Prev/5/84/05/Pt/2218 dated **07.10.2010**	2005-06 to 2009-10 (31/03/2010)	22,96,77,146/- (as 5,04,49,559/- normal period + 17,92,27,587/- extended period)

2.	V(STC)15/CE/Adj/23/2011/1132 dated **29.03.2011**	01.04.2010 to 01.10.2010	1,40,07,253/-
3.	V(STC)15/CE/Adj/67/2011/4032 dated **14.09.2011**	02.10.2010 to 31.03.2011	2,31,45,422/-

2.1 The Revenue Authorities received intelligence that the assessees were engaged in providing services in the category of 'Manpower Recruitment or Supply Agency's Services' to PUNBUS and thereafter, initiated enquiry into the matter. In the course of enquiry on the scrutiny of the records of PUNBUS for the various financial years, it came to light that the assessees had incurred expenditure under the accounting head 'Operational Charges' which were paid to the Director, State Transport, Govt of Punjab. On request from the Revenue Authorities, PUNBUS deputed a representative on 09.12.2009 to attend the office of the Inquiry Officer. The representative of PUNBUS informed the Inquiry Officer that the 'Operation Charges' were the charges which were paid to the assessees on account of hiring of manpower from the assessees. Further, enquiry into the matter with PUNBUS and the assessees revealed that the assessees were not registered with the jurisdictional Revenue Authorities for the payment of service tax on services in the category of 'Manpower Recruitment or Supply Agency's Service' which is a taxable service under the Finance Act, 1994. The term 'Manpower Recruitment or Supply Agency' has been defined under Section 65(68) of the Act and the service in relation to 'Manpower Recruitment or Supply Agency's Service' is defined under sub-clause (k) of clause (105) of Section 65 of the Act. Further, it was also alleged that the assessees were a commercial organization and therefore, were covered within the definition of the term 'Commercial Concern' as was contained in definition in Section 65(68) prior to the amendment of Section 65(68) w.e.f. 16.05.2008. After the amendment of definition of the term 'Manpower Recruitment or Supply Agency', the term 'Commercial Concern' has been replaced by the term 'Any Person', therefore, the assessees are covered under definition of the term 'Manpower Recruitment or Supply Agency'.

2.2 Further, in the SCN dated 07.10.2010, it was also alleged that the assessees did not get themselves registered with the jurisdictional Revenue Authorities for payment of service tax on services in the category of 'Manpower Recruitment or Supply Agency's Services' and did not disclose the services received from PUNBUS and also did not file statutory ST-3 Returns. Further, it was also alleged that the assessees suppressed the facts from the Revenue Authorities with intent to evade the payment of tax; consequently, extended period of limitation has been invoked.

2.3 Further, in all the SCNs, the assessees had also been charged with contravening the provisions of Section 68 read with Sections 66, 69 and 70 of the Act and Rules 4, 5, 6 and 7 of the Service Tax Rules, 1994.

2.4 The assessees filed detailed replies to the SCNs vide their letters dated 01.12.2010, 26.04.2011 & 17.10.2011.

2.4.1 In their replies, the assessees stated that due to weak financial position in the state of Punjab, it was decided that no funds would be sanctioned to replace the old and ageing buses of the assessees. The Govt of Punjab got incorporated under the Companies Act, 1956 a company named Punjab Bus Stand Management Company Limited ('PUNBUS') which is wholly owned by the Govt of Punjab. The PUNBUS started operation in May, 2006 on the existing route permits of the Punjab Roadways. It was also decided by the Govt of Punjab that the staff of the Punjab Roadways was to be deployed with PUNBUS on assignment basis without any additional remuneration or deputation allowance. The General Manager of the depots of Punjab Roadways, senior staff and other staff were designated as officers/staff of PUNBUS in addition to their duties in Punjab Roadways. The salaries of the staff of Punjab Roadways are still being paid from the government treasury but are being reimbursed by the PUNBUS.

2.4.2 It was also stated in the replies that the assessees, being a Governmental Department, were performing statutory function to provide passenger transport service and were not acting as 'Manpower Recruitment or Supply Agency', therefore, they were not covered within the ambit of the term 'manpower recruitment or supply agency' as defined under Section 65(68) of the Act.

2.4.3 It was also stated in the replies that PUNBUS is a separate legal entity and is maintaining separate accounts for expenses incurred by them. In terms of provisions of the Govt of Punjab, Allocation of Business Rules, 2007, all matters relating to the administration of Motor Vehicles Rules, 1988 have been allocated to the Department of Transport.

2.4.4 It was also stated in the replies that both, the assessees and the PUNBUS, are under the administrative control of the Principal Secretary to the Government of Punjab, Department of Transport. No extra consideration was paid for additional duty performed by the staff of the assessees for the PUNBUS. The accounts and records of the assessees were properly maintained and were subject to audit by the Accountant General of Punjab. The assessees had not suppressed any fact from the Revenue.

2.5 After following the due process, the learned Commissioner has passed the impugned order (as cited above in *para 1.1*). However, being aggrieved by dropping the demand for extended period, The Revenue has preferred the appeal bearing no. ST/621/2012 and against the confirmation of demands, the assessees have preferred the appeals bearing nos. ST/699/2012 & ST/51802/2014 before us.

Appeal No. ST/621/2012

3. As for as the Revenue’s appeal is concerned, the learned Authorized Representative for the Revenue submits that the impugned order, dropping the demand for the extended period, is not sustainable in law.

3.1 The learned Authorized Representative further submits that the assessees, i.e. M/s Punjab Roadways, were providing the services of Manpower Recruitment or Supply Agency’s Service to PUNBUS, but were not registered with the department and also were not paying the service tax on the said services and when the enquiry was conducted then it was found by the Revenue that the assessees are providing the said services from the period 2005-06 onwards and they have suppressed the material facts from the Revenue; therefore, by invoking the extended period, the SCN dated 07.10.2010 was issued.

3.2 The learned Authorized Representative further submits that the learned Commissioner has wrongly held that the Revenue has not been able to establish any of the ingredients provided in proviso to Section 73(1) of the Act. He submits that the Revenue has established that is only by the enquiry conducted by the Revenue that non-payment of service tax was detected otherwise it would have gone unnoticed and therefore, the assessees have suppressed the material facts with intent to evade the service tax.

4. On the other hand, the learned Counsel for the assessees defends the dropping of the demand for the extended period and further submits that the learned Commissioner has given a detailed finding after considering the proviso to Section 73(1) of the Finance Act, 1994 as well as the precedent decisions on the issue. He further submits that in order to invoke the extended period, the department has to establish any of the essential ingredients as provided under Section 73(1) of the Act for invoking the extended period of limitation i.e. fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of the Chapter or the Rules made thereunder with intent to evade payment of service tax,

whereas in the present case, the department has not established the same.

5. We have considered the submissions made by both the parties in this appeal. As regards the dropping of demand for the extended period, we find that the learned Commissioner, in the impugned order, has examined the issue in details and has given the detailed finding and has categorically held that in the facts and circumstances of the case that the assessees being a Governmental Department and the service recipient also being a company owned Undertaking of the State Government, had no intention to evade the service tax, therefore, the extended period of limitation could not have been invoked. We also find that the learned Commissioner has also dropped the penalties under Sections 76, 77 and 78 of the Act by giving benefits under Section 80 of the Act. Here, it is relevant to reproduce the findings of the learned Commissioner, recorded in para 4.17 to para 4.21 of the impugned order, which are reproduced herein below:

> "**4.17** It has also been argued that the demands of service tax for financial years 2005-06. 2006-07, 2007-08 & 2008-09 is barred by limitation of time. It has been mentioned that for invoking extended period of time limit the situations envisaged in proviso to Section 73(1) of the Act should be present. There should be suppression of facts or other situations with intent to evade the payment of tax. There should be mala fide on the part of the Noticees to evade the payment of tax. It has been stated that there was no mala fide on the part of the Noticees. There was no intention to evade the service tax hence the extended period of limitation could not have been invoked. The demand should have been issued in the normal period of time of limitation of one year.

4.18 If the Noticees had failed to declare the value of taxable service in the period between 2005-06 and 2008-2009, pay service tax on time and file correct ST-3 Retum. However, to invoke extended period of limitation, the initial onus of proof that that the Noticees had the knowledge that they were liable to pay service tax and intentionally evaded the tax was on the revenue. Only after the initial burden was discharged, the extended period of limitation could be applied. In the show cause notice dated 07.10.2010 there is allegations of suppression of fact and intentional evading of tax but no evidence has been adduced to show that the Noticees had the knowledge that they were liable to pay tax and they deliberately avoided to pay the tax. It is well established law that mere failure to pay the tax is not sufficient to invoke the extended period of limitation. The text of proviso to Section 73(1) is such that only fraud, suppression, mis-statement or contravention of law is not sufficient to invoke the extended period of limitation. The acts or omissions of the defaulter have to be intentional There, thus, is the requirement of guilty mind or mens rea the on part of the defaulter. Mere allegation of intentional evasion is not sufficient. The allegation has to be supported by evidence that the Noticees had the knowledge that they were liable to pay tax but they avoided to pay tax. The legal position stated here is based on decisions of the Hon'ble Supreme Court of India in the case of ***Tamil Nadu Housing Board v CCE, Madras, 1994 (74) ELT 9 (SC)***, in relation to Section 11A of the Central Excise Act, 1944. Section 11A of the Central Excise Act, 1944 is similar to Section 73 of the Act. The normal period of limitation under Section 11A was six months which can be extended to five years on grounds identical to the grounds to mentioned in Section 73. Dealing with the provisions of Section 11A, the Hon'ble Supreme Court of India made following observations:

> *"3. Section 11A of the Act empowers the Central Excise Officer to initiate proceedings where duty has not been levied or short-levied within six months from the relevant date. But this period to commence proceedings under proviso to the Section stands extended to five years if the duty could not be levied or it was short-levied due to fraud, collusion, wilful misstatement or suppression of facts etc. The proviso to Section 11A reads as under:*
>
> *"Provided that where any duty of excise has not been levied or paid or has been short-levied or*

short-paid or erroneously refunded by reason of fraud, collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder, with intent to evade payment of duty, by such person or his agent, the provisions of this sub-section shall have effect, as if for the words" Central Excise Officer", the words "Collector of Central Excise" and for the words "six months", the words "five years" were substituted."

A bare reading of the proviso indicates that it is in nature of an exception to the principal clause. Therefore, its exercise is hedged on one hand with existence of such situations as have been visualised by the proviso by using such strong expression as fraud, collusion etc. and on the other hand it should have been with intention to evade payment of duty. Both must concur to enable the Excise Officer to proceed under this proviso and invoke the exceptional power. Since the proviso extends the period of limitation from six months to five years, it has to be construed strictly. ***The initial burden is on the Department to prove that the situations visualised by the proviso existed.*** *But once the Department is able to bring on record material to show that the appellant was guilty of any of those situations which are visualised by the Section, the burden shifts and then applicability of the proviso has to be construed liberally.* ***When the law requires an intention to evade payment of duty then it is not mere failure to pay duty. It must be something more. That is, the assessee must be aware that the duty was leviable and it must deliberately avoid paying it.*** *The word 'evade' in the context means defeating the provision of law of paying duty. It is made more stringent by use of the word 'intent. In other words the assessee must deliberately avoid payment of duty which is payable in accordance with law. In Padmini Products v. Collector of Central Excise 1989 (43) E.LT, 195, it was held that* ***where there was scope for doubt whether case for duty was made out or not,***

> ***the proviso to Section 11A of the Act would not be attracted.*** (emphasis supplied)

In the present proceedings no evidence has been brought on record to prove that the situations visualised in proviso to Section 73(1) existed. There is nothing on record to show that the Noticees were aware that they were liable to tax and they intentionally evaded the payment of tax. In such circumstances it is unfair to invoke extended period of limitation.

In another decision of the Supreme Court, in the case of **CCE v Chemphar Drugs and Liniments, 1989 (40) ELT 276**, similar observations have been made.

> *"In our opinion, the order of the Tribunal must be sustained. In order to make the demand for duty sustainable beyond a period of six months and up to a period of 5 years in view of the provise to sub-section 11A of the Act, it has to be established that the duty of excise has not been levied or paid or short-levied or short-paid, or erroneously refunded by reasons of either fraud or collusion or wilfull misstatement or suppression of facts or contravention of any provision of the Act or Rules made thereunder, with intent to evade payment of duty.* ***Something positive other than mere inaction or failure on the part of the manufacturer or producer or conscious or deliberate withholding of information when the manufacturer knew otherwise, is required before it is saddled with any liability, beyond the period of six months****. Whether in a particular set of facts and circumstances there was any fraud ar collusion or wilful misstatement or suppression or contravention of any provision of any Act, is a question of fact depending upon the facts and circumstances of a particular case."*
>
> (emphasis supplied)

Accordingly, something positive other than mere inaction or failure to pay the tax on the part of the service provider is required. The failure to pay the tax should be accompanied with conscious or deliberate withholding of information. It is required to be proved that service provider avoided to pay the tax when he knew that he was liable to pay the service tax before he is saddled with any liability beyond the period of one year. There is nothing in the show cause notice which suggests that there was more than the mere inaction on the part of the Noticees when they failed to pay the service tax. Further, no evidence has been adduced to show that the Noticees had the knowledge that they were liable to pay the service tax and they deliberately avoided to pay the service tax. The Noticees have all the time contested the liability to pay the service tax. In such a situation it is unfair and illegal to saddle them with any liability beyond the normal period of limitation of one year. In the normal period of limitation the liability is strict and is enforceable without any fault or mala fide on the part of the service provider.

4.19 In the show cause notice dated 7.10.2010, the demand has been issued for period 2005-06 to 2009-10. For the period from 2005-06 to 2008-09, for the last half year, October-2008 to March-2009, the last date for filing the ST-3 Return was 25th April, 2009 and accordingly, the last date for issuing the show cause notice in the normal period of limitation of one year was 25th April, 2010. The show cause notice has been issued on 07 10. 10. The show cause notice is, therefore, barred by limitation. When the show cause notice is barred by limitation for the last half year for the period between 2005-06 and 2008-09 then for the earlier half years to the show cause notice is barred by limitation.

4.20 The demand of service tax for the period 01.04.2009 to 31.03.2010 in show cause notice at Sr. No. 1 of the 'Table' above is within the time limit. The demands of service tax as proposed to be recovered in show cause notices at Sr. No.2 & 3 in the 'Table above are also within the time limit. As the service tax is payable but has not been paid hence the interest on the service tax is payable under Section 75 of the Act.

4.21 There is proposal in the show cause notices to impose penalty on the Noticees under Sections 76, 77, & 78 of the Act. There is a provision in Section 80 of the Act-providing that no penalty shall be imposed for any failure referred in Sections 76, 77, or 78 of the Act, if it is proved that there was reasonable cause for the failure It is already discussed above that non payment of service tax was not due to any wilful suppression of facts or any intention to evade payment of tax. The reason for failure to pay tax is that the Noticees have contested their liability to pay tax from the day enquiries were initiated by the department. The Noticees entertained a belief that they were not liable to pay tax as the Noticees are a state government department and they had provided services to the company which was also wholly

> owned by the government. Though the belief of the Noticees was not legally correct, yet it can be treated as sufficient cause to condone the penalty as provided in Section 80 of the Act. The Noticees being a government department cannot have any malafide intention in avoiding to pay service tax."

6. In view of the well-reasoned findings recorded by the learned Commissioner, we are of the considered view that there is no infirmity in the impugned order. Therefore, we do not find any merit in the appeal filed by the Revenue and accordingly, we dismiss the same.

Appeal Nos. ST/699/2012 & ST/51802/2014

7. As for as the assessees' appeals are concerned, the learned Counsel for the assessees submits that the SCNs, issued to M/s Punjab Roadways/assessees, are not a valid notice because Punjab Roadways is only a wing of State of Punjab working under the Punjab State Transport Corporation and the SCNs should have been issued to the State of Punjab and not to M/s Punjab Roadways. He further submits that it was only the State of Punjab which was the employer of the alleged manpower/employees who were allegedly made to perform duties with the PUNBUS, therefore, only State of Punjab to be held as 'chargeable to service tax' as a service provider; whereas the SCNs in question were not issued/served to the State of Punjab. He further submits that M/s Punjab Roadways is not an entity in the eyes of law which could be held as chargeable to alleged liability as provided in Finance Act, 1994 qua service tax. He also submits that the Director of State Transport is not authorized to for service of any statutory notice issued to the Govt of Punjab; it could be served only

through the Chief Secretary of the State or the Secretary of the Department of Transport, Punjab. He further submits that the alleged SCNs were illegal and unsustainable in law and this legal plea was not considered by the Commissioner while passing the impugned order.

7.1 The learned Counsel further submits that the assessees-Punjab Roadways were not engaged in supply of manpower to any other person and they had assigned the duties of their certain employees to the PUNBUS which is wholly owned by the Govt of Punjab; the officers/employees of the assessees were designated as officers/employees of the PUNBUS in addition to their duties in Punjab Roadways and salaries of the officers/employees were paid from the government treasury.

7.2 The learned Counsel further submits that the assessees-Punjab Roadways were performing statutory function and therefore, they do not fall in the definition of "Manpower Recruitment or Supply Agency's Service" as defined under Section 65(68) of the Act.

7.3 The learned Counsel further submits that the assessees in order to clarify the position obtained the legal opinion of Law Secretary of the State of Punjab, who examined the legal position and clarified that the assessees were not engaged in supply of manpower recruitment and they had only assigned some of their staff to the PUNBUS who was paying them some operational charges and assessees are not a commercial concern and is merely a department of the Govt of Punjab and the alleged service recipient is also a company owned by the state government.

8. On the other hand, the learned Authorized Representative for the Revenue reiterates the findings of the impugned order to the extent of confirming the demands.

9. We have considered the submissions made by both the parties regarding these appeals. We find that the only issue to be decided in these appeals whether the assessees are liable to pay service tax under the category of "Manpower Recruitment or Supply Agency's Service". Before recording the findings, it is necessary to consider the relevant statutory provisions, which are reproduced herein below:

> **Section 65(68) of the Act, with effect from, 16.06.2005** read as under:-
> *"Manpower Recruitment or Supply Agency" means any commercial concern engaged in providing any service directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise to a client.*

> **Section 65(68)** was amended **with effect from 16.05.2008**. After the amendment the text read as under:-
> *"Manpower Recruitment or Supply Agency" means any person engaged in providing any service directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise to any person.*

> **"taxable service" in relation to "manpower recruitment or supply agency" as defined under Section 65(105) (k)**:-
> *"taxable service" means any service provided or to be provided to any person by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner and the term 'service provider' shall be construed accordingly.*

10. Further, we find that before the amendment in the definition of "Manpower Recruitment or Supply Agency's Service", the service tax

was leviable on the commercial concern but after the amendment w.e.f. 16.05.2008, it was provided that Manpower Recruitment or Supply Agency's Service can be provided by any person to any other person.

11. Further, we find that the assessees in this case, have assigned their drivers/conductors/staff to work for PUNBUS and the PUNBUS reimbursed the operational charges to the state government.

12. Further, we find that PUNBUS was incorporated for safe, reliable, efficient, sustainable service of transport to the general public on the existing route permits of the Punjab Roadways. The Govt of Punjab decided that the staff of Punjab Roadways was to be deployed with PUNBUS on assignment basis without any additional remuneration or deputation allowance. Further, we find that the officers of Punjab Roadways, including the senior officer and other staff, were designated as officers/staff of the PUNBUS in addition to their duties in Punjab Roadways. When the officers/staff were deputed to PUNBUS, it was decided that salaries of the officers/staff are still being paid by the state government but are partly being reimbursed by the PUNBUS. Hence, assesses-Punjab Roadways, being a transport department of the State of Punjab, is performing statutory function to provide transport services to the general public and is not a manpower recruitment or supply agency.

13. Further, we find that the State Legal Advisor/the Secretary to Govt of Punjab, after considering the definition of "Manpower Recruitment or Supply Agency's Service" and the taxable services

under Manpower Recruitment or Supply Agency, has opined that M/s Punjab Roadways is not a company but it is governmental department under the Department of Transport, Punjab and it is discharging statutory function on behalf of Govt of Punjab for providing travelling facilities to the general public being a public utility service. He has further opined that both, the assessees-Punjab Roadways and the PUNBUS, are under the control of Department of Transport, Punjab and therefore the staff of Punjab Roadways is also discharging the additional duties of the PUNBUS and the PUNBUS is simply reimbursing/transferring the salaries of the staff of Punjab Roadways assigned with additional duties.

14. Further, we find that both, the assessees-Punjab Roadways and the PUNBUS, are under the administrative control of the Principal Secretary to Govt of Punjab, Department of Transport, Punjab and the staff of the Punjab Roadways is simply being utilized in addition to their own duties for the efficient working of PUNBUS and there was no consideration in providing additional duties to the staff of Punjab Roadways for the PUNBUS. Therefore, we are of the considered view that the assessees are not providing the services of manpower recruitment or supply agency to the PUNBUS and hence, are outside the purview of service tax on the services of 'Manpower Recruitment or Supply Agency's Service'.

15. Further, we find that it is a settled law that when the demand for extended period is invoked and the same is set aside then the demand for normal period cannot be confirmed in view of the

judgment of Hon'ble Apex Court in the case of **Collector of Central Excise, Jaipur vs. Alcobex Metals - 2003 (153) ELT 241 (SC)**.

15.1 We also find that Hon'ble Calcutta High Court in the case of **Infinity Infotech Parks Ltd vs. Union of India** - **2014 (36) S.T.R. 37 (Cal.)**, after relying on the judgment of Hon'ble Apex Court in **Alcobex Metals** (supra)'s case, has held as under:

> "**92.** When a notice is issued in support of transactions spread over a period of time and it is found that the extended period of invocation has been invoked, the notice cannot be treated as within limitation for some of the same transaction, once it is found that the extended period of limitation is not invocable. This proposition find support from the judgment of the Supreme Court in Collector of Central Excise, Jaipur vs. Alcobex Metals reported in 2003 (153) E.L.T. 241 (S.C.)."

15.2 Further, we find that the Principal Bench of the Tribunal in the case of **Shyam Spectra Pvt Ltd vs. CST, Delhi-II** vide **Final Order No. 56196/2024 dated 31.07.2024**, after following the ratio of the above judgment of Hon'ble Calcutta High Court in **Infinity Infotech Parks Ltd** (supra)'s case, has held that the entire demand is barred by limitation.

15.3 Further, we also find that the Division Bench of this Tribunal in the case of **M/s R.S. Financial Services vs. CCE, Chandigarh-II – Final Order No. 60489/2024 dated 27.08.2024 - CESTAT CHANDIGARH** as well as in the case of **Dev Raj Hi Tech Machines Ltd vs. Pr. Commr. of CGST, Ludhiana vide Final Order No. 60923 dated 01.08.2025** - **CESTAT CHANDIGARH**, has also held the same view and set aside the entire demand.

15.4 Therefore, by following the ratios of the above cited decisions (supra), as far as the SCN dated 07.10.2010 is concerned, we set aside the demand for normal period also.

16. Further, we also hold that the demands, as confirmed in the subsequent SCNs dated 29.03.2011 and 14.09.2011, are also not sustainable in law in view of our discussion above.

17. In result, the appeals filed by the assessees are allowed and the appeal filed by the Revenue is dismissed.

(Order pronounced in the open court on 29.08.2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

RA_Saifi