

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 54827 of 2014**

[Arising out of Order-in-Appeal No. LUD-EXCUS-APP-115-14-15 dated 12.05.2014  
passed by the Commissioner (Appeals), Central Excise, Chandigarh-I]

**M/s Nikhil Goswami**

3, BRB, Rattan Chand Road,  
Mall Road, Amritsar  
Punjab 143001

**.....Appellant**

*VERSUS*

**Commissioner of Service Tax, Ludhiana**

GST Bhawan, F-Block, Rishi Nagar  
Ludhiana 141001

**.....Respondent**

**APPEARANCE:**

Shri Siddharth Goswami, representative for the appellant

Shri Kanish Saini, 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. 61402/2025**

DATE OF HEARING: 18.09.2025

DATE OF DECISION: 18.09.2025

**S.S.GARG:**

The present appeal is directed against the impugned order dated 27.05.2014 passed by the Commissioner (Appeals), whereby the Commissioner (Appeals) has confirmed the demand of service tax of Rs. 14071/- along with interest and imposed the penalties under Section 77 and 78 of the Finance Act, 1994.

2. Briefly the facts of the present case are that the appellant has received the Commission from M/s Swadeshi Koreatax in his individual capacity for facilitating sale and purchase of goods. A show cause notice dated 15.10.2009 and corrigendum dated 01.02.2011 was issued to the appellant seeking the demand of service tax of Rs. 14071/- for providing Business Auxiliary Services under Section 65(105)(zzb) of the Finance Act, 1994 along with interest and penalties. The appellant filed detailed reply to the show cause notice and submitted that the appellant being an individual does not fall in the definition of the Commercial Concern and not liable to pay tax during the relevant period. By following the due process, the original authority confirmed the demand and appeal filed by the appellant was dismissed by the Commissioner (Appeals).

3. Heard both the parties and perused the material on record.

4. Shri Siddharth Goswami, representative appeared for the appellant and submits that the impugned order is not sustainable because he is working as commission agent for M/s Swadesh Koreatax and got the commission which is not liable to service tax as he is not working as commercial concern. He also submits that though he has paid the tax and has prayed that interest and penalty should be dropped as he has not suppressed any material fact from the department and the show cause notice issued to the appellant on 19.11.2009 is barred by limitation because a query was raised by the Range Officer in his letter dated 08.08.2007; he filed the detailed reply on 8.10.2007, wherein he has submitted that the appellant being an individual is not a commercial concern and therefore not liable to pay service tax during the relevant period; but in spite of

that Department issued a show cause notice dated 19.11.2009 i.e. after more than two years from 08.08.2007.

5. On the other hand, learned authorized representative for the department reiterated the findings of the impugned order.

6. We have considered the submissions of both the parties and perusal of the material on record, we find that the Tribunal in the case of the Father of the appellant vide Final Order No. 60906/2025 dated 23.07.2025 in Service Tax Appeal No. 54828 of 2014 on identical issue has set aside the demand of interest and penalties by holding as under:

6. After considering the submissions of both the parties and perusal of the material on record, we find that though the show cause notice is entirely barred by limitation as the appellant has not suppressed the material facts from the Department and on an enquiry raised by the Range Officer vide his letter dated 08.08.2007, the appellant vide its letter dated 08.10.2007 clarified that he is working as an individual and not as a commercial concern and he is not liable to pay service tax under Business Auxiliary Service. But in spite of that, the department issued the show cause notice after more than two years which is clearly barred by limitation as the appellant has not suppressed any material facts, moreover, the appellant has paid the tax and he is only praying that interest and penalty may be dropped as he has not suppressed any material from the department.

7. In view of these circumstances, we set aside the demand of interest and penalty imposed under Section 77 and 78 of the Act. The appeal is accordingly, disposed of on above terms.

(Operative part of the order pronounced in the open court)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**

Kailash