CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60428 of 2017

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-03-16-17 dated 03.04.2017 passed by the Commissioner (Appeals), Central Excise, Ludhiana]

M/s Jalalabad Associates **......Appellant**
(Co-owners), C/o Bhart Kumar Watts,
Arora Rice Mills, Fazika Road, Jalalabad,
Fazilka, Punjab-152024

VERSUS

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

APPEARANCE:

Shri R.K. Hasija and Shri Shivang Puri, Advocates for the Appellant

Shri Ram Niwas, 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. 60157/2026

DATE OF HEARING/ DECISION: 13.02.2026

P. ANJANI KUMAR:

Eleven co-owners of a property, under the name of Jalalabad Associates, have entered into a contract with Punjab State Warehousing Corporation effective from 01.05.2009; as per the Agreement, PSWC was paying rent to all the eleven co-owners in the proportion of the share of their property after deducting applicable

TDS; Revenue was of the opinion that these eleven co-owners have formed an Association of Persons and have rendered the services of "Renting of Immovable Property" falling under Section 65 (105) (zzzz) of Finance Act, 1994; show cause notices, dated 10.10.2013, 21.03.2014 & 07.04.2015, covering the period 01.04.2008 to 31.03.2012; 01.04.2012 to 31.03.2013 and 01.04.2013 to 31.03.2014 respectively demanding service tax of Rs.10,95,666/-; Rs.5,04,196 & Rs.5,04,288/- respectively were issued; all the show cause notices were adjudicated vide common order dated 13.01.2016 by Additional Commissioner, Central Excise, Ludhiana. Aggrieved by the said order, the appellants filed appeals before the Commissioner (Appeals). The appeals were dismissed vide impugned order dated 03.04.2017. Hence, this appeal.

2. Shri R.K. Hasija, learned counsel for the appellants, submits that the value of the taxable service qua each of the co-owners is less than Rs. 10 Lakhs and therefore, exemption under small-scale notification is admissible to the appellants; the appellants have not received any of the show cause notices; they came to know of the same when the same was pasted on the premises; since the OIO dated 13.01.2016 was received in the Commissioner's office on 20.01.2016, the appellants considered the same as the date of the receipt of the order; as the issue involved is about the interpretation of legal provisions, extended period is not invocable; learned Commissioner observed that the appellants claim that order has been received on 25.03.2016 and appeal has been filed on 17.03.2016; the appellants clarified further that the order was

pasted on the premises on 25.01.2016 which was mentioned as 25.03.2016 due to some clerical mistake; even if the appeal is supposed to have received by the appellants on 20.01.2016 (that is the date of receipt in the Commissioner's office), the appeal is filed in time.

3. Learned counsel further submits that the issue is squarely covered on merits in favour of the appellants; as per Notification No.06/2005-ST dated 01.03.2005 (as amended from time to time), service tax was exempted on the taxable services for the value of Rs. 10 Lakhs in a financial year. He places reliance on the following cases:

- Deoram Vishrambhai Patel – 2015 (40) STR 1146 (Tri. Mumbai)
- Anil Saini & others – Final Order No.6723-61729/2016 dated 05.12.2016
- Ramesh Kumar Chaudhary & Others – 2024 (12) TMI 1025- CESTAT Chandigarh
- Bijoy Kumar Almal – (1995) 125 CTR (SC) 418
- CIT vs. Manager, SBI - [2009] 226 CTR (Raj.) 310
- CIT v. Senior Manager, SBI -[2012] 20 taxmann.com 40 (All.)
- CIT v. Manager, State Bank of India- [2009] 226 CTR 310 (RaJ.) Amalendu Sahoo V ITO - (2003) 264 ITR 16 (Cal);
- Orient Bank of Commerce V-TDS / TRO (2006) 99 TTJ 1235 (Chd).

4. Shri Ram Niwas, learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

5. Heard both sides and perused the records of the case. On going through the impugned order, we find that the learned Commissioner finds as follows:

> It is observed that the appellant in their ST-4 proforma which has been duly received in the Office of the Commissioner (Appeals) shows the date of filing appeal as 17.03.2016 whereas pm Sr. No. 4 and Column NO. 3 of the same ST-4 Form, the date of communication is shown as 25.03.2016 which was said be found pasted on the premises. It was specifically asked to the Id. Advocate as to on what day/date they had received the order/said O-1-O for the first time, it was categorically submitted by the Id. Advocate that it was on 25.03.2016 that they saw the impugned Order for the first time, that too pasted in the premises.
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> It was further asked by the undersigned that it was very surprising and intriguing that as to how the appeal comes to be filed even without receiving the impugned Order-in-Original the Id. Advocate responded by saying that he shall clarify the same. Till date there is neither any clarification nor any affidavit has been filed by the appellant/counsel and in the present situation, where the Id. Counsel appears to have been caught on the wrong foot during the course of personal hearing, it is evident that he has no explanation to offer in this regard. Under these circumstances, when a discrepancy ab initio has been cropped up upon the timing of filing appeal, until the same is explained properly to the satisfaction of the appellate authority, the appeal cannot be preceded on merits and warrants dismissal especially in view the fact that the appellant/ld. Counsel are not interested in pursuing the same as they have not clarified the same even three weeks after the hearing.
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> Therefore, the appeal is liable to be dismissed on the forgoing counts and I accordingly hold it so.

Keeping in view the above, the appeal of the appellant is dismissed.

6. In view of the above, we find that learned Commissioner has not applied his mind and has not given any findings either on the merits of the case or on the limitation. Therefore, it will be difficult for this Bench to evaluate the order. Therefore, in the interest of justice, the matter should go back to the appellate authority to examine the twin issues of limitation and merit and to record his findings and accordingly the order.

7. In view of the above, the appeal is allowed by way of remand to the Commissioner (Appeals) with a direction that the order in remand shall be passed within four weeks of receipt of this order; it is needless to reiterate that learned Commissioner shall give due consideration to the submissions of the appellants and the jurisprudence that evolved on the subject.

(order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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