CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 61105 of 2018

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-14-18-19 dated 13.04.2018 passed by the Commissioner (Appeals), CGST, Chandigarh]

Pradeep Singh **......Appellant**
H.No.2074, Sector-44C,
Chandigarh-160047

VERSUS

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

APPEARANCE:

Shri Sudeep Singh Bhangoo, Advocate for the Appellant
Shri Aniram Meena and Ms. Amita Gupta, Authorized Representatives for the Respondent

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

FINAL ORDER NO.60261/2026

DATE OF HEARING: 16.03.2026
DATE OF DECISION: 19.03.2026

P. ANJANI KUMAR:

M/s Pradeep Singh, the appellant, assails the order dated 13.04.2018 of the Commissioner (Appeals) Chandigarh.

2. Brief facts of the case are that the appellant was registered for providing Manpower Recruitment Agency Service. During the course

of audit of the records of M/s Godrej and Boyce, a customer of the appellant, it appeared to the Revenue that the appellant has rendered Manpower Recruitment and Supply Service and has not discharged applicable service tax of Rs.34,98,233/- during the period 2007-2010; a show cause notice dated 04.10.2012 were issued to the appellants demanding service tax along with interest and penalty; the proposals were confirmed vide OIO dated 16.04.2018 which was upheld by the impugned order.

3. Shri Sudeep Singh Bhangoo, learned counsel for the appellants, submits that the appellants have paid the applicable duty along with interest when pointed out by the audit before the issuance of show cause notice; in fact, the appellant has paid service tax of Rs.22,71,216/- in the normal course but classifying the services rendered by them under Works Contract Service and Rent a Cab Service, as per their understanding; on being pointed out by the audit, they have paid the balance tax of Rs.12,25,017/- along with interest of Rs.3,42,890/-; the same has been acknowledged in Para 3 of the show cause notice. He submits that both the adjudicating authority and the appellate authority have disregarded the admission in the show cause notice that the amount of Rs.22,71,216/- and proceeded on the premise that no documentary proof has been shown. He further submits that the fact of payment of tax by them was also intimated by the jurisdictional Central Excise Range Officer to the audit team. He fairly submits that the appellant is not contesting the appeal on merit but requests that in

the facts and circumstances of the case, imposition of penalty was not warranted.

4. Ms. Amita Gupta, learned Authorized Representative for the Department reiterates the findings of the impugned order and submits that the appellants did not produce any documentary evidence, of payment of service tax, before the adjudicating authority and the appellate authority and accordingly, the authorities confirmed the demand. She submits that as the appellant has not paid service tax on his own; has not informed the Department by indicating relevant details in the ST-3 Returns and as the audit has pointed out the same, the appellants are liable to pay the penalty.

5. Heard both sides and perused the records of the case. We find that in the impugned case, service tax of Rs.34,98,233/- was demanded. The appellant claims that they have already paid Rs.22,71,216/- during the course of rendering service and balance tax of Rs.12,25,017/- along with interest of Rs.3,42,890/- was paid on being pointed out by the audit but before the issuance of show cause notice. The original authority and the appellate authority find that the appellant has not produced any records to prove the same.

6. We find that the Para 3 of the show cause notice gives the particulars of the tax paid by the appellant. Para 3 reads as under:

> 3. On scrutiny of these documents it was found that out of total liability of Rs.34,98,233/-, the Noticee has paid Rs.22,71,216/- under the head of 'Works Contract Services' and 'Rent-a-Cab Services' Rs.12,25,017/- under

> the head of 'Manpower Recruitment Agency Services'. However, at the same time of audit the service tax amounting of Rs.12,25,017/- was not deposited by the Noticee and the same was deposited by them in the month of May & Dec – 2011 along with interest.

7. We also find that Superintendent of the jurisdictional Range vide his letter dated 12.06.2012 addressed to Senior Audit Officer informed that the appellant has deposited (Rs.24,07,393/- + Rs.10,90,914/- = Rs.34,98,233/-) through different challans and the accrued interest of Rs.3,42,870/- was also deposited by the appellant.

8. In view of the above, we find that there is incontrovertible evidence indicating that the appellant has paid the applicable service tax before and after the audit has pointed out. The show cause notice and the letter written by the jurisdictional Range Officer confirmed the same. This being the case the authorities below have committed a serious error in holding that the appellant did not produce any evidence to prove that the applicable service tax was paid. We find that Revenue has no case on the payment of service tax. Further, we find that the show cause notice was issued on the basis of an audit report on the records of the service recipient; the appellant has been discharging service tax although on a different heading, extended period cannot be invoked and in view of the provisions of Section 73, there was no need to issue the show cause notice also. Therefore, we are of the considered opinion that imposition of penalty is not warranted as pleaded by the appellants.

9. In view of the above, the appeal is partly allowed by setting aside the penalties imposed.

(Order pronounced in the open court on 19/03/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

PK