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

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 60385 of 2020**

[Arising out of Order-in-Original No. 05/2020-21/Commr/PP/FBD dated 30.06.2020 passed by the Commissioner of Goods & Service Tax, Faridabad]

**M/s Triupati Viniyog Pvt Ltd** **......Appellant**
Stone Mine Bakhrija 2 Village
Bakhrija , The Nangal Chaudhary, Mahendergarh
Haryana 123029

*VERSUS*

**Commissioner of Central Goods & Service Tax, Faridabad** **......Respondent**
Block D, New CGO Complex,
NH-IV, NIT, Faridabad, Haryana 121001

**APPEARANCE:**

Shri Nirmal Kumar Chaudhary, Advocate for the Appellant
Shri Anurag Kumar and Shri G.D. Bansal, 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. 60405 /2026**

DATE OF HEARING:16.02.2026
DATE OF DECISION:01.07.2026

**S.S. GARG:**

The present appeal is directed against the impugned order dated 30.06.2020 passed by the Commissioner of CGST, Faridabad, whereby the learned Commissioner has confirmed the demand of service tax as proposed in the show cause notice dated 11.09.2019 along with equal penalty under Section 78 (1) of the Finance Act, 1994; the learned commissioner has also imposed penalty of Rs. 10,000 under Section 77 of the Act.

2. Briefly the facts of the present case are that the appellant was engaged in mining of stone along with associated minor minerals and sale thereof; pursuant to an auction held in July, 2015, the mine was granted on lease to the appellant on 24.07.2015 and subsequently, the appellant entered into a Lease Deed on 26.10.2015 with the Director General, Mines & Zoology in terms of the provisions of Deed. The appellant was required to pay an amount of Rs.25,54,50,000/- in instalments. The Department gathered intelligence indicating that the appellant was evading payment of service tax under reverse charge mechanism in terms of Section 68 (2) of the Finance Act, 1994read with Rule 2 (1) (d) of the Service Tax Rules, 1994 on the payment made to the mines Zoology Department, Haryana towards annual dead rent/royalty. Accordingly, an investigation was initiated by the DGGI, Rohtak and as per the Department, any services provided by Government or Local Authorities to business entities would attract service tax w.e.f. 01.04.2016 in terms of Section 66D(a)(iv) of the Finance Act, 1994 as amended. As per the Department, the assignment of right to use of natural resources for consideration paid to the Government of Haryana towards royalty/dead/ rent/MMDR & RF is a service as per Section 65B(44) of the Finance Act, 1994 and squarely covered under the phrase 'any service' used in the definition and it appears that the assignment of right to use natural resources by the Government of Haryana to appellant for mining and sale of stone products in lieu of dead rent/royalty and MMDR & RF is not covered under the negative list of services under 66D of the Finance Act, 1994 and before 01.04.2016, the said service was exempted from payment of service tax.

2.1 As per the Department, the appellant is a business entity and is covered under Section 68(2) of the Finance Act, 1994 and is responsible for payment of service tax under Reverse Charge Mechanism. On completion of the investigation, the summons were issued on 24.08.2018 and the appellant vide their letter dated 10.09.2014 contended that they have been granted the mining lease on 24.07.2015 and they have been paying VAT/GST on the value of the builders extracting from the mines and sold to the customers. The appellant relied upon the decision of India Cement Limited and contended that payment of royalty is amounting to payment of tax and no service tax on the said tax is impossable and hence, they are not liable for making payment of any service tax. The appellant had submitted the copy of the contract, letters of Intent awarded by Mines and Zoology Department, Haryana, copy of the Income Tax, Balance Sheet for the Financial Year 2016-17 and Form 26AS and details of month-wise payment made to the Mines and Zoology Department. Further, the statement of Shri Dalchand Chauhan, President of the appellant was recorded on 10.09.2018, wherein he explained all the facts regarding the activities carried on by them. Subsequently, the Department issued a show cause notice dated 11.09.2019 directing the appellant to show cause as to why service tax amounting to Rs. 3,95,07,603/- along with interest and penalty shall not be recovered from the appellant since the appellant was liable for making payment of service tax. The appellant did not file reply to the show cause notice nor could they appear for personal hearing in spite of opportunities given to the appellant as mentioned in the impugned order. Thereafter, the adjudicating authority passed the impugned order on 10.07.2020 and in the said findings, the allegation in the show cause notice have been upheld and the demand has been confirmed along with interest and also imposed penalties. Hence, the present appeal.

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

4. Learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law; and binding judicial precedents. He further submits that the impugned order has been passed by the learned Commissioner ex-parte which is clearly in violation of the principles of natural justice because the appellant has not been heard and therefore the appellant could not bring his defense on record. He further submits that the appellant's contention as contained in their letter dated 10.09.2018 in response to summons has not been considered. He further submits that during the relevant time, the issue involved was contentious as to whether payment of royalty is amounting to tax and payment of service tax would be amounting to levying tax on tax. He also submits that the levy of tax on the services provided by the Government to the business entities came into force w.e.f. 01.04.2016 and the appellant was not a person liable to pay service tax under Section 68(2) and/or under Notification No. 30/2012-ST dated 20.06.2012.

4.1 He further submits that the issue of leviability of service tax on royalty was a matter of interpretation and the said issue was pending before the Hon'ble Apex Court and has now been settled by the 9 Judges Bench of the Hon'ble Supreme Court in the case of ***M/s Mineral Area Development Authority -Vs- Steel Authority***

***of India Limited reported in 2024 (21) Centax 378 (S.C.)***. He further submits that the issue was relating to interpretation of the legal provisions and hence neither extended period be invoked nor penalty be imposed. Learned counsel further submits that the agreement in the present case was entered into prior to 01.04.2016 and even if the payment is made after 01.04.2016, the appellant shall not be liable for making payment of service tax. For this, he relied upon the decision in the case of ***Principal Commissioner, CGST & Central Excise, Bhopal Vs. M/s S.R. Traders vide Final Order No. 50660/2023 dated 09.05.2023*** and the same was upheld by the Hon'ble Apex Court vide its order dated 22.08.2023 and the appeal of the Revenue was dismissed. The learned counsel for the appellant submits that they did not receive the show cause notice and also hearing notices and hence could not file reply and appear for personal hearing; also submits that they received only one notice dated 16.03.2020/17.03.2020 intimating the final hearing on 14.04.2020 but due to Covid-19, the appellant could not attend due to Government restriction not to go out of the house.

5. On the other hand, learned Authorized Representative for the department reiterated the findings of the impugned order and submits that the Commissioner (Appeals) has passed a detailed order after considering his statement made during the course of investigation and also the documents produced by him. He further submits that in spite of various opportunities given to the appellant he did not appear for the personal hearing and also did not file reply to the show cause notice and therefore, the Commissioner had no option but to pass the order on the basis of the documentary evidence available on record.

6. We have considered the submissions of both the parties and perused the material on record, we find that the impugned order has been passed without giving reasonable opportunity to submit reply to the show cause notice and without granting reasonable opportunity of hearing thereby contravening the principles of natural justice. We find that final hearing in this matter was fixed on 14.04.2020 but during that time Covid-19 was in full force and the appellant could not attend the personal hearing because there were government restrictions to go out of the house. Further, we find that the learned Commissioner has even not considered the various submissions made in the letter dated 10.09.2018 in response to the summons issued to the appellant. We also find that during the relevant period, the issue of leviability of service tax on royalty was subjudiced before the Hon'ble Supreme Court and it was finally decided by 9 judges Bench of the Hon'ble Apex Court in the case of ***M/s Mineral Area Development Authority -Vs- Steel Authority of India Limited*** (cited Supra). The Hon'ble Apex Court resolved the issue of service tax on royalty payment only on 25.07.2024 and therefore, the question of invocation of extended period for raising the demand also cannot be made when the issue relates to interpretation. Further, we find that the agreement in the case was entered into prior to 01.04.2016 and as per the appellant, they are not liable to pay the service tax because the same has come into force w.e.f. 01.04.2016 and for this they have relied upon the decision in the case of ***Principal Commissioner, CGST & Central Excise, Bhopal Vs. M/s S.R. Traders*** (cited Supra) which has been upheld by the Hon'ble Supreme Court also. Further, we find that since the learned Commissioner has passed the impugned order

without affording an opportunity of hearing to the appellant, thereby violating the principles of natural justice.

7. In view of these facts and circumstances, we are of the considered view that the matter needs to be remanded back to the learned Commissioner with a direction to decide the matter after affording an opportunity of hearing and thereafter pass a reasoned order in accordance with law. Consequently, the impugned order is set aside and the matter is remanded back to the Commissioner to decide afresh after complying with the principles of natural justice and the same may be done within a period of three months after the receipt of the certified copy of this order.

(Order pronounced in the open court on 01.07.2026)

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

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

Kailash