CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 59175 of 2013

[Arising out of Order-in-Original No. 03/2013 dated 30.04.2013 passed by the Commissioner of Central Excise, Delhi-II]

M/s Life Long India Ltd. **......Appellant**
Plot No.23, Sector 5, IMT Manesar,
Gurgaon, Haryana-122050

VERSUS

Commissioner of Service Tax, Delhi **......Respondent**
17-B.I.A.E.A House, M.G. Road, I.P. Estate
New Delhi-110002

APPEARANCE:

Ms. Krati Singh and Mr. Monarch Mittal, Advocates for the Appellant

Shri S.K. Meena, 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. 60414/2026

DATE OF HEARING: 02.06.2026
DATE OF DECISION: 01.07.2026

P. ANJANI KUMAR:

Lifelong India Ltd, the appellant arraigns the order in original dated 30.04.2013 passed by Commissioner of Service Tax, New Delhi, vide appeal ST/59175/2013.

2. Briefly stated the facts of the case are that the appellant is engaged in the manufacture and export of motor vehicle parts; the Appellant entered into agreements with various foreign service

providers including M/s Wainwright Industries Inc, for handling the goods which included inspection, sorting, rework etc; accordingly, the Appellant was paying the service providers for such services; the expenditure was being recorded under the head 'export incidental charges' in its books of accounts. Revenue was of the opinion that the appellants have received Business Auxiliary Services from the various Service Providers abroad and are liable to pay Service Tax on reverse charge basis. A Show Cause Notice, dated 04.04.2012, covering the period on 01.04.2006 to 30.10.2011, demanding Service Tax of Rs 3,90,11,312, along with interest and penalty, on an amount of 20,11,77,655 paid by them to overseas Service providers. The amount of Tax payable was arrived adopting best judgement method. The proposals in the notice were confirmed by the impugned order along with equal penalty under section 78 and a penalty of Rs 20,000 under Section 77 of Finance Act, 1944.

3. Ms. Krati Singh, learned counsel for the appellants submits that the impugned order goes beyond the scope of the SCN; whereas the SCN does not specify the sub-clause under BAS, the order proceeds to confirm the tax under sub-clause (v) of Section 65(19) of the Act under *production or processing of goods for, or on behalf of, the client*" and *a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as… inventory management*" under sub-clause (vii); the same is not permissible; moreover, the activity cannot be categorized under two sub-clauses simultaneously; since SCN is the foundation of a proceeding, the Impugned Order going beyond the SCN is not sustainable. He relies on the following cases.

- Syniverse Mobile Solutions Pvt Ltd 2023 (6) TMI 463 - CESTAT Hyderabad
- Balaji Enterprises 2020 (3) TMI 17 - CESTAT New Delhi
- Joshi Auto Zone Pvt Ltd 2023 (12) TMI 1069 - CESTAT Chandigarh
- M/s Coforge Smart serve Limited 2024 (1) TMI 826 - CESTAT Chandigarh
- Dr. Jagjeet Singh Parwana 2023 (8) TMI 407 - CESTAT Chandigarh
- Incredible Unique Buildcon Pvt Ltd 2022 (65) G.S.T.L. 377 (Tri. - Del.)
- M/s Ess Gee Real Estate Developers Pvt Ltd. 2019 (6) TMI 633 - CESTAT New Delhi (upheld by Supreme Court in 2019 (12) TMI 1363 – SC)
- M/s. Central Registry of Securitisation, Asset Reconstruction and Security Interest of India (CERSAI) 2023 (4) TMI 435 - CESTAT New Delhi
- Toyo Engineering India Ltd 2006 (8) TMI 184 - Supreme Court
- M/s Shree Krishna Paper Mills & Industries Ltd 2024 (12) TMI 668 - CESTAT Chandigarh
- M/s. Karan’s Creations 2023 (5) TMI 1020 - CESTAT Mumbai

4. learned counsel submits further that during the relevant period, the Appellant was in agreement with multiple foreign service providers to provide the necessary warehousing services to protect the exported goods of the Appellant, before shipping them to the actual customers; service providers make efforts for shipment, preparation of packing slips and other shipment documentation in relation to shipment to customers. He submits that one such service provider was M/s Warehouse Division, IWS; as per the Appellant’s agreement, Warehouse will be responsible to undertake warehousing including inspection, verification and handling and

storage of the inventory, delivery of inventory to the customers, maintenance of records relating to inventory and storage of damaged inventory; the activities clearly suggest that no production or processing relating activity is undertaken by the foreign service provider, resulting in formation of a new product; they were only engaged in handling the cargo exported by the Appellant before ultimately shipping it to the customers. He submits that such activity of unloading, packing, storing preparing for shipment of the goods, clearly fall under the definition of 'cargo handling services' or alternatively under 'storage and warehousing services', as mentioned under Section 65(23) read with Section 65(105) (zr) of the Act and Section 65(102) read with Section 65(105) (zza) of the Act respectively.

5. Learned Counsel submits further that as per Rule 3(ii) of the Taxation of Services (Provided from Outside India and received in India) Rules, 2006, services mentioned therein are taxable services only if they are performed in India; cargo handling and storage and warehousing services, both are mentioned under Rule 3(ii) of the Import of Service Rules; in the present case, Wainwright actually performed the inspection and related activities in their own country (USA), which is clearly outside the taxable territory of India; as per Rule 3(ii) of the Import of Service Rules, no service tax was payable by the Appellant on amount paid for the activities performed by Wainwright. He submits that the demand of service tax is on the activity undertaken by the foreign entity outside India and has been used and consumed by the Appellant outside India; hence, in terms of Section 64 of the Finance Act, 1994, no service tax is leviable on

the Appellant. He relies on Vistar Construction (P) Ltd 2013 (2) TMI 52 - Delhi High Court; Schott Glass India Pvt. Ltd, 2009 (1) TMI 45 - Gujarat High Court and Reliance Industries Ltd., 2009 (7) TMI 717- Gujarat High Court.

6. learned Counsel submits that w.e.f. 18.04.2006, even with introduction of Section 66A of the Act for charge of service tax on services received from outside India, the present activities will not be taxable; also in terms of Rule 3 of the Import of Service Rules also, as the services are actually provided outside India and hence not taxable merely because the service recipient is in India; only those services that are provided outside India and received in India are liable to Service Tax. He relies on

- Orient Crafts Limited 2006 (4) STR 81
- Board's Circular F. No. B1/4/2006-TRU dated 19.04.2006.
- M/s. Lifelong India Private Limited 2026 (2) TMI 400 - CESTAT New Delhi
- M/s Goodyear India Limited 2025 (6) TMI 1598 - CESTAT Chandigarh
- M/s Eastman Impex 2025 (11) TMI 1278 - CESTAT Chandigarh

7. learned Counsel submits, without prejudice to the above, that the demand was wrongly confirmed as per the best judgement method; firstly, recourse to best judgment method was taken, under Section 72 of the Act, for the period 01.04.2008 - 31.10.2011, without issuing a formal order and without giving an opportunity of being heard; secondly, the calculations were also wrong in as much as that though, there was no amount paid by the Appellant to

Wainwright from the period 2008 onwards, Tax was confirmed beyond this period; actual service tax liability, if at all was only Rs. 22,48,978, whereas tax liability of Rs. 3,90,11,312, was confirmed; further, Section 72 is effective from 10.05.2008, so, application of best judgement method for the period prior to 10.05.2008 is not sustainable.

7.1. Learned Counsel submits that even assuming that the Service tax was liable to be paid, the same would have been available to the Appellant as Cenvat Credit, given that these services qualify as input services; the entire exercise being revenue neutral, intent to evade payment of duty cannot be alleged and extended period is not invocable when the entire demand is arising out of audit conducted at the premises of the Appellant. He submits that since the demand of service tax is not sustainable, demand of interest and penalty on the same is also not sustainable; further, as per the provisions of Section 78 of the Act, penalty in excess of 50% of the service tax cannot be imposed on the Appellant when the Appellant reflected true and fair details of transactions in the books of accounts. He relies on the following.

- M/s. Rashtriya Chemicals and Fertilizers Limited 2026 (3) TMI 1632 - Supreme Court
- Nirlon Ltd 2015 (5) TMI 101 - Supreme Court
- M/s Bharti Teleport Ltd, 2024 (10) TMI 825 - CESTAT Chandigarh
- M/s Coforge Smartserve Limited (supra)
- Schneider Electric India Pvt Ltd 2023 (6) TMI 1198 - CESTAT Chandigarh
- M/s Dhanuka Laboratories Ltd 2023 (12) TMI 851 - CESTAT Chandigarh

- Global Wind Power Ltd and Mehul Lakhani 2025 (1) TMI 70 - CESTAT Ahmedabad
- M/s Khadim India Limited 2024 (4) TMI 1008 - CESTAT New Delhi

8. Shri S.K. Meena, learned authorised representative reiterates the findings of the impugned order and submits that submits that as the appellants did not discharge the service tax on the payments made to M/s Wainwright Inc, they were issued an Audit Report (IAR) followed by a number of letters, summonses; the appellant did not bother to reply; the appellant has not filed their ST-3 returns properly declaring taxable receipts w.r.t. the objection; therefore, having left with no alternative, best judgment method was applied and demand of Service tax was raised. He submits that extended period has been rightly invoked as the appellants suppressed facts with intent to evade payment of tax. He relies on

- M/s Sanjay Verma - Final Order dated 60747/2025 dated 26.06.2025(Tri. - Chd)
- Nuclear power corporation of India Ltd (2024) 21 Centax 274 (Tri.-Bom)
- Croda India Company Pvt Ltd 2019 (5) TMI 1139 - CESTAT MUMBAI
- M/s Abhilasha Enterprises 2025 (11) TMI 952 - CESTAT ALLAHABAD
- M/s Shalimar Corp Ltd 2025 (10) TMI 883 - CESTAT ALLAHABAD
- M/s Omkar Services 2017 (12) TMI 1200 - CESTAT MUMBAI
- M/s Orient Flights P. Ltd 2023 (10) TMI 116 - CESTAT CHENNAI
- Tour aids (I) Travel Services 2014 (7) TMI 542 - ALLAHABAD HIGH COURT

8.1 learned authorised representative submits that in view of the non-cooperation of the appellant, their contention that the Show Cause Notice does not state about the sub clause of section 65(19) of the Finance Act,1994, is not acceptable; as the demand was raised under Business Auxiliary Service, mere absence/ non-mentioning of specific clause of Section 65(19), would not vitiate the SCN. He relies on

- AVI Steel Traders 2010 (260) ELT 43 (Del.);
- Fortune Impex 2004 (167) ELT.A134 (SC);
- Raghunath International Ltd 2011 (266) ELT 432 (All.);
- ITC LTD- 2014 (36) STR 481 (Del.) and 2015 (38) STR J362 (SC)

9. learned authorised representative submits further that the appellant has only replied once, vide reply to SCN on 23.07.2012; though, the appellant claims to have submitted its ledger for verification of amount paid to M/s Wainwright, as per OIO no such ledger was submitted or enclosed along with this single reply; the appellant did not attend Personal Hearing though, opportunity was given; the appellant did not supply the requisite details purposely and therefore, they cannot argue that extended period cannot be invoked for the reason Audits were conducted regularly. He relies on the following.

- Agrico Engineering Works (India) Pvt Ltd 2000 (122) ELT 891 (Tri. -Del)
- Chemfab Alkalis Ltd 2010 (251) ELT 264 (Tri. -Chennai)
- Godrej & Boyce Mfg. Co Ltd 2015 (38) STR 431 (Tri. -Bom)
- Tigrania Metal & Steel Industries- 2001 (132) ELT 103 (Tri. -Del)

- M/S Union Quality Plastic Ltd 2013-Tiol-1072-Cestat-Ahm-Lb
- Neminath Fabrics Pvt Ltd.- 2010 (256) ELT369 (Guj.)

10. learned authorised representative submits to conclude that the appellant did not submit documentary evidence in their support and therefore, the adjudicating authority cannot now argue that specific sub-clause of Section 65(19) was not quoted; for the same reason, the appellants cannot now argue that services received by them falls under Cargo Handling Services. He submits that in the interest of justice, the appellant be given again a fair opportunity despite their earlier casual/careless approach towards departmental correspondences /summonses/IAR; the case may be remanded back to the adjudicating authority with the direction to the appellant to submit all the evidences they would like to rely upon and to appear before the adjudicating authority as and when such hearing is fixed.

11. Heard both sides and perused the records of the case. We find that the issues that needs to adjudicated in the instant case are as to whether

(i). the appellants are liable to pay Service Tax, under Reverse Charge Mechanism, on the amounts paid by them in respect of services they availed from M/s Wainwright Industries Inc and others in respect of the goods exported by them.

(ii). the adjudicating authority was correct in adopting best judgment method under section 72

(iii). Revenue has made out a case for invocation of extended period to issue Show Cause Notice.

12. Coming to the first question, the appellant submits that the impugned order goes beyond the scope of SCN; whereas the SCN seeks demand without specifying the sub-clause of BAS, Commissioner has confirmed under clause (v) of the BAS; the impugned order is confused as it holds that the services received by the appellant are classified under sub-clause (vii) also. They submit that services received by them from M/s Wainwright Industries Inc, USA etc are not covered under BAS and that the services provided by M/s Wainwright Industries Inc., USA were not performed in the taxable territory of India, hence not taxable. The adjudicating authority finds that

> *25.1. I observe that in the aforesaid Contract, the processing charging were negotiated by M/s Wainwright Industries Inc with M/s General Motors. I opine that the noticee manufactured and exported the motor vehicle parts to their customers in USA like M/s General Motors. The said goods were first consigned to M/s Wainwright Industries Inc, USA who provided services of sorting & inspection of the said goods and rework, job-work & processing upon the said goods before final delivery to the clients of the noticee. Thus, the notice received the said services from Wainwright and paid consideration to Wainwright against receipt of the said services. Hence, the noticee is the client of Wainwright. I also observed that Wainwright was engaged in processing of the goods on behalf of the client (i.e. the noticee). Hence, the said activity of Wainwright is amply covered under clause (v) of the definition of BAS under section 65(105) (zzb) of the Act viz.; "production*

or processing of goods for, on behalf of, the client". Therefore, I find that the services provided by M's Wainwright Industries Inc. are covered under 'Business Auxiliary Services

25.2 Also, from the said contract, it is also observed that Wainwright was also providing JIT delivery operations or "Just in Time" delivery operation which is nothing but a technique of "Inventory Management System". Hence, the said activities of Wainwright are covered under the clause (vii) of the definition of BAS under section 65(105) (zzb) of the Act viz.; a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision, and includes services as a commission agent, but does not include any information technology services and any other activity that amounts to "manufacture" within the meaning or clause (f) of Section 2 of the Central Excise Act, 1944. Therefore, it is clear that the services provided by M/s Wainwright Industries Inc. are covered under 'Business Auxiliary Services'.

26.1 Further, the noticee has contended that M/s Wainwright Industries Inc. did not provide the services within the territory of India, hence were not liable to service tax. The contention of the noticee is incorrect in as much as the territory of India is concerned for liability of Service Tax on provider of Service i.e. Service Tax under Section 66 of the Act as such situation is applicable in case of levy of service tax under section 66 of the Act ibid.

26.2 The present case is covered under section 66A of the Act ibid and here liability to pay service tax is fixed under reverse charge mechanism i.e. on Recipient of the Services. I find that in this case all the condition prescribed under Section 66A of the Act ibid are fulfilled

> *i.e. (a) the services provider Le. M/s Wainwright Industries Inc., USA. has established a business or has a fixed establishment from which service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and (b) the receiver of the Service i.e. M/s Lifelong India Pvt Ltd, has a place of business, fixed establishment, permanent address or usual place of residence, in India.*

13. We find that whereas the appellants argue the case on the counts that the impugned order is beyond the scope of the show cause notice, inasmuch as the show cause notice does not specify the sub-clause of the BAS under which service tax can be levied; that the Commissioner failed to consider that the services were rendered beyond the territorial jurisdiction of India and in terms of POPS Rules, the said services are not taxable on RCM basis. It appears that learned Commissioner has come to a conclusion that the appellants, an entity located in India, have received services from an entity situated outside India and therefore, service tax is payable under Reverse Charge Mechanism. Ongoing through the various types of services received by the appellants, it appears that the services rendered are in respect of the goods which have been exported by the appellants to M/s General Motors are physical in nature and are performed outside India and in terms of Rule 3 (ii) of the Import of Service Rules, no tax is payable. We find that learned

Commissioner has not given any findings on this count; however, Principal Bench of the Tribunal in the case of appellant's themselves held vide Final Order No.50257/2026 dated 06.02.2026 that:

> 7. We now consider the issue at hand:
>
> 7.1 **<u>1.4.2011-30.6.2012-</u>**
>
> Learned counsel has submitted before us that as the overseas commission agent had rendered the services of promotion of sales to customers located in North America, hence the service was provided outside the taxable territory. We note that the Board's Circular F. No. B1/4/2006-TRU dated 19.4.2006 categorically clarifies that the services have to be received in India for the same to be taxable under Section 66A read with Taxation of Services Rules, 2006. In this context, we note that in Genom Biotech Pvt. Ltd (supra), the Tribunal held as follows:-
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> "18. From the context in which the appellant has entered into agreements with the three providers who were held to be rendering 'advertising agency service' it would appear that these are intended to relate to the activities of the appellant in relation to export goods after their arrival in Ukraine. At no stage are they required for any activity of the appellant in India. The service itself is not warranted except in relation to export by the appellant and hence tax, even if leviable, is not to burdened onto the export goods.
>
> 19. The original authority has failed to take note of the destination of the goods manufactured by the appellant and has deemed the services rendered in Ukraine to have been imported into India for business and commerce. From our examination of the scheme of 'deeming of import of services' for taxation supra, it can be reasonably inferred that the 'business or commerce in Rule 3(iii) of Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 is not intended tax services that are rendered in connection with business or commerce outside the territory of India. Since the appellant has no requirement of advertising agency service 'for manufacture and export of goods, the tax demanded in the impugned order is not on the consideration for a service received in India but a tax on

> the funds transferred in a cross-border transaction. Such a tax is not contemplated in Finance Act, 1994. The demand of tax on the appellant is not in accordance with law.
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> 20. The impugned order is, therefore, set aside"
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> 7.2. In the instant case, we note that the services were clearly received in North America, and hence is not liable to service tax.

14. We find that although the above decision in respect of Commission Agents situated overseas, the principle is very much applicable to the facts of the impugned case. We find that in the impugned case before us physical activity in respect of the goods is performed overseas and therefore, the services are rendered and consumed overseas i.e. in a territory to which the Finance Act 1994 is not applicable. We also find that this Bench, vide Final Order No.60614-60617/2025 dated 23.06.2025 in the case of Goodyear India Limited, held that:

> 8.2 On going through the provisions of Section 66A, Rule 2(1)(d)(iv) and Section 68(2) cited supra, we find that the Reverse Charge Mechanism was introduced w.e.f. 18.04.2006 but in the present case, the said provision is not applicable because it is a clear cut finding that the impugned services have been performed/rendered entirely outside India and the same cannot be taxed in India under the provisions of Reverse Charge Mechanism. We also find that even the deeming provisions as contemplated under Rule 3(ii) not applicable in the present case in view of the clear cut findings that services were received entirely outside India.
>
> 8.3 We also find that the Hon'ble Delhi High Court in the case of Orient Crafts Ltd (supra), has clearly held that no service tax at all can be levied on services rendered and received outside India. By following the ratio of the said

> decision and also considering the CBEC's Circular dated 19.04.2006 (supra), we are of the considered view that the appellant is not liable to service tax under reverse charge basis; therefore, to this extent, we set aside the demand.

15. Coming to the other issues, we find that though the show cause notice did not specify the sub-clause of BAS to which the impugned service belongs to. We find that, as submitted by the Authorized Representative for the Revenue, no great harm has been caused in non-mentioning of the sub-clause. We find that as long as the service is mentioned, non-mentioning of the sub-clause is not fatal to the case as per the cases relied upon by the learned Authorized Representative. However, we find that the Commissioner comes to a conclusion that the said services fall under sub-clause (v) as well as sub-clause (vii) is not acceptable. Though it can be understood that the show cause notice is an expression of intent of the Revenue to demand service tax for a particular service. It is for the adjudicating authority to specify the category before confirming the demand on this count. We find that in the absence of categorical conclusion by the learned Commissioner; the impugned order cannot be sustained as far as the classification is concerned.

16. Coming to the issue of limitation, we find that the show cause notice as well as the impugned order attempts to blame the appellant for the reason that there was no co-operation from the appellant and many letters and summonses were not honored and that the appellants did not submit any evidence/ documents to substantiate their claim that they have not paid any amount after 2008-09. Learned Commissioner also finds that though the

appellants claimed to have enclosed copies of the said ledgers but the same were not found enclosed. We find that the omissions of the appellants, if any, could be a plausible explanation for adopting best judgement method; however, best judgement cannot be applied where there were no payments made by the appellants towards the alleged service. The appellants submit that there were no payments after 2008-09. We find that learned Commissioner has taken the figures for 2006-07 & 2007-08 and proceeded by multiplying the doubling the base figures for the years 2006-07 & 2007-08 cumulatively over the years so as to say learned Commissioner has assumed that the appellants have paid an amount which is twice of the payments made in 2006-07 & 2007-08 while calculating the payment made to the overseas service providers. Similarly, the value of taxable service for the year 2010-11 was taken to be twice the remuneration paid in 2009-10. We find that no service tax could have been confirmed without any evidence of payment in the subsequent years. Best judgment pre-supposes adoption of available figures adjusted by way of reasonable method but in no case, they would mean adopting or taking fictionery figures. Therefore, we find that, on this count too, the impugned order is not sustainable.

17. Coming to the issue of limitation, we find that learned Commissioner finds as follows:

> 27……..I am of the opinion that once the things come into question, only copies of some ledger cannot be a sufficient evidence to claim difference in value, and to come clean, the noticee must have submitted their relevant Annual Report, Balance Sheet, 'Notes on Accounts' showing the figures of

expenditure incurred in 'foreign currency', head-wise bifurcation of such expenditure, Bank Certificates proving payment made in foreign currency, copies of the bills etc. But, the noticee preferred to remain silent and deliberately did not submit any document in support of their claim. Therefore, I do not find merit in the contention of the noticee. I also noticee that the noticee never acted in a mature and responsible manner with regard to submission of data to Service Tax Division, Gurgaon as well as during the course of adjudicating proceedings. As per records, the officers of Service Tax Division, Gurgaon issued five letters and one Summon to the noticee but the noticee never responded. This act of the noticee is not only of non-cooperation with the Department but also in complete defiance of the law of the land. Moreover, even during the course of adjudication proceedings, five letters were issued to the noticee but they neither responded nor appeared on the dates fixed for personal hearings. It is on record that, in total, eleven letters (including one summon) were issued to the noticee but they never responded. This proves that the noticee has no documentary evidence to submit in support of their claim and the assessee is adopting the dilatory tactics to avoid the assessment of Service Tax. Since, the assessee failed to submit figures/data for the period 2008-09 to Oct, 2011, therefore, I agree with the proposal of the SCN to calculate service tax liability of the noticee on the basis of best judge men: assessment procedures provided under section 72 of the Act ibid.

28. I, therefore, confirm the demand of service tax amounting to Rs.3,90,11,312/-(Rupees Three Crores Ninety Lakhs Eleven Thousand Three Hundred and Twelve only) (including Education Cess and Secondary & Higher Education Cess) for the period 01.04.2006 to 31.10.2011 under BAS from the noticee under proviso to Section 73(1) of the Act along-with interest as applicable from time to time under Section 75 of the Act ibid.

18. We find that the appellants have been subjected to audit number of times and have been filing the Returns. Revenue has not put forth any questions after scrutinizing the Returns. Having failed to do so, a bland allegation that the appellant has not mentioned the figures in ST-3 Returns cannot come to the rescue of the Revenue. We find that in many cases, Tribunals and Courts have held that extended period cannot be invoked when an issue is noticed upon conduct of an audit. We find that the Principal Bench of the Tribunal held in the case of M/s G D Goenka Private Limited vide Final Order No.51088/2023 dated 21.08.2023 as follows:

> 21. This legal position that the primary responsibility for ensuring that correct amount of service tax is paid rests on the officer even in a regime of self-assessment was clarified by the Central Board of Excise and Customs in its Manual for Scrutiny of Service Tax Returns the relevant portion of which is as follows:
>
>> 1.2.1 A The importance of scrutiny of returns was also highlighted by Dr. Kelkar in his report on Indirect Taxation. The observation made in the context of Central Excise but also found to be relevant to Service Tax is reproduced below:
>>
>> It is the view that assessment should be the primary function of the Central Excise Officers. Self-assessment on the part of the taxpayer is only a facility and cannot and must not be treated as a dilution of the statutory responsibility of the Central Excise Officers in ensuring correctness of duty payment. No doubt, audit and anti-evasion have their roles to play, but assessment or confirmation of assessment should remain the primary responsibility of the Central Excise Officers.
>
> (emphasis supplied)
>
> 22. Therefore, to say that had the audit not been conducted, the incorrect availment of CENVAT credit would not have

> come to light is neither legally correct nor is it consistent with the CBEC's own instructions to its officers.

19. In view of the above, we find that no case has been made by the Revenue for invoking extended period of limitation on the above count. Further, we find that the appellants have also taken the plea of revenue neutrality. We find that this Bench in the case of Goodyear (supra) held that:

> 9. Regarding the issue of revenue neutrality, we find that in the appellant's own case, revenue neutrality is applicable qua the same assessee on account of reverse charge basis and not towards any other party. We also find that demand of service tax being on reverse charge basis is without dispute fully CENVATABLE in view of Rule 3(1)(ixa) of CENVAT Credit Rules, 2004 inserted on 08.04.2011 with retrospective effect from 18.04.2006 which clearly provides that the service tax leviable under Section 66A of the Finance Act, is CENVATABLE.

20. In view of the above, we find that the appeal succeeds on merits as well as limitation. Accordingly, the appeal is allowed.

(Order pronounced in the open court on 01/07/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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