

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

REGIONAL BENCH – COURT NO. III

Service Tax Appeal No.42304 of 2015

(Arising out of Order-in-Appeal No.281/2015 (CXA-II) dated 25.09.2015
passed by Commissioner of Central Excise (Appeals-II), Chennai)

M/s. Mallika Constructions,Appellant
No.39, Kaikalakuppam,
Periya Kappankulam Post,
Vridhachalam Taluk,
Cuddalore-607 802.

Versus

Commissioner of GST & Central Excise ... Respondent
No.1, Goubert Avenue,
Puduchery-605 001.

APPEARANCE:

Shri R. Balachandar, Advocate for the Appellant
Shri N. Satyanarayana, Authorised Representative
for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.41418/2025

DATE OF HEARING: 05.06.2025
DATE OF DECISION: 03.12.2025

Per: Shri P. Dinesha

The present Appeal is filed against the impugned
Order-in-Appeal No.281/2015 dated 25.09.2015 by the
Appellant/Assessee.

2. Brief and relevant facts are that the Appellant is a service provider of various taxable services to M/s. Neyveli Lignite Corporation (NLC, for short). It was noticed that during the period from April 2008 to March 2009, the Appellant had provided the 'Management, Maintenance or Repair service' to M/s. NLC. They received payments for the same, but had not paid the Service Tax and also not filed the statutory returns. Therefore, a Show Cause Notice dated 10.10.2009 was issued to the Appellant under Section 73(2) of the Finance Act, 1994 proposing a total Service Tax demand of Rs.1,09,550/-. After due process, the Adjudicating Authority *vide* the Order-in-Original No.7/2014-ST dated 28.01.2014 confirmed the entire Service Tax demand along with interest and appropriated an amount of Rs.35,886/- already paid by them. He also imposed penalties under Sections 76 and 77 of the Finance Act, 1994. Aggrieved by the order of Adjudicating Authority, the Appellant preferred an Appeal before the Commissioner (Appeals) who *vide* impugned Order-in-Appeal No.281/2015 dated 25.09.2015, upheld the OIO. Hence, the present Appeal has been filed by the Appellant before this forum.

3. Heard Shri R. Balachandar, Ld. Advocate for the Appellant and Shri N. Satyanarayana, Ld. Assistant Commissioner for the Respondent, we have perused the documents placed on record including the orders of lower authorities.

4. From a perusal of the Order-in-Original dt. 28.01.2014, the Adjudicating Authority has mainly proceeded to fasten the tax liability based on a letter received by the Appellant indicating that the having asked by their principal manufacturer i.e. M/s.Neyveli Lignite Corporation (NLC) who had directed them to remit service tax on 33% of the value, it was indicated that the amount received represented cost of procurement of materials required for the work.

5. Now in several cases of similar factual matrices, this Bench has held that the tax authorities should specify the services in the context of contracts entered into between the parties, in order to support their allegations made in the SCN to substantiate the charges, failing which the very quantification of service tax lacks support. Hence, the SCN issued is just an

empty formality. In fact, the Chennai Bench have referred the decisions in (i) **CCE Vs Brindavan Beverages** - 2007 (213) ELT 487 (SC) (ii) **CCE Vs Ballarpur Industries Ltd.** - 2007 (215) ELT 489 (SC) in support and have further ruled in favour of the tax payer in the following decisions :

(i) **Shri K. Mayakrishnan, Contractor Vs CGST & Central Excise, Puducherry** - Final Order No.40964/2023 dt. 31.10.2023 (ST/41858/2014)

(ii) **N. Arhitas, Contractor Vs CGST & CE, Puducherry** - Final Order No.40325/2025 dt. 11.03.2025 (in ST/41547/2015)

(iii) **N. Arunachalam & Co. Vs CGST & CE Puducherry** - Final Order No.40439/2024 dt. 22.04.2024 (ST/40230/2015)

6. In view of the above settled position of law, we are of the view that the demand in the impugned order cannot sustain for which reason the impugned order is set aside and the Appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in open court on 03.12.2025)

sd/-

(P. ANJANI KUMAR)
Member (Technical)

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sd/-

(P. DINESHA)
Member (Judicial)