

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

REGIONAL BENCH – COURT NO. III

**Service Tax Appeal No.40071 of 2016**

(Arising out of Order-in-Appeal No.300/2015 (STA-II) dated 30.10.2015  
passed by Commissioner of Service Tax (Appeals-II), Chennai)

**M/s. National Company,**  
Chandra Apartments,  
9, Kandasamy Street,  
Mylapore,  
Chennai-600 004.

**....Appellant**

***Versus***

**Commissioner of GST & Central Excise ... Respondent**  
Chennai North Commissionerate,  
No.26/1, Mahathma Gandhi Road,  
Nungambakkam,  
Chennai-600 034.

**APPEARANCE:**

Ms. R. Maheswari, Advocate for the Appellant  
Shri M. Selvakumar, Authorised Representative for the Respondent

**CORAM:**

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

**FINAL ORDER No.41417/2025**

**DATE OF HEARING: 05.06.2025**  
**DATE OF DECISION: 03.12.2025**

**Per: Shri P. Dinesha**

This Appeal is filed against the Order-in-Appeal No.300/2015 dated 30.10.2015 by the Assessee.

2. Brief and relevant facts as could be gathered from the orders of the Lower Authorities and after hearing both sides are that the Assessee are engaged in renting out their immovable properties for a rental income. The Assessee do not raise any bill/invoice for the rent, receives the rent through cheque and tax is paid on such amount received. The amount received was inclusive of TDS and exclusive of proportionate property tax, water & sewerage tax and urban land tax. During the course of Internal Audit conducted by the officers of the Service Tax Commissionerate, Chennai, it was noticed that the Assessee had short paid Service Tax on three counts (i) Short paid Service Tax to the tune of Rs.89,914/- for the period from 2007- 08 to 2010-11 (Upto 9/2010) by wrongly deducting Water & Sewerage tax and Urban land tax from the taxable value (ii) Short paid Service Tax amounting to

Rs.36,780/- by calculating Service tax at 10.3% instead of 12.36% (iii) Not paid Service Tax on the rental income during the period from June 2009 to September 2009 in respect of two of their tenants. The above resulted in the issuance of a Show Cause Notice dated 25.05.2011, wherein it was proposed to demand Service Tax along with interest on the following grounds (i) Short payment of Service Tax to the tune of Rs.89,914/- for the period from 2007-08 to 2010-11 (Upto 9/2010) by wrongly deducting Water & Sewerage tax and Urban land tax from the taxable value (ii) Short payment of Service Tax amounting to Rs.36,780/- by calculating Service tax at 10.3% instead of 12.36% (iii) Non-payment of Service Tax on the rental income during the period from June 2009 to September 2009 in respect of two of their tenants. It appears that the Assessee filed its reply justifying the non-payment/short payment of Service Tax; the Adjudicating Authority having considered the same in adjudication, *vide* Order-in-Original No. STC/10/2013-ADC (LTU) dated 14.03.2013 confirmed the proposals made in the SCN. Aggrieved by the above demands, it appears that the Assessee filed its first Appeal before

the Commissioner (Appeals) and contested the demands confirmed in the OIO. It also appears that the Assessee also raised the issue of invoking the extended period of limitation as, according to it, the period of dispute being 2007-08 to 2010-11, the SCN issued dated 25.05.2011 is bad and without jurisdiction.

3. The Commissioner (Appeals) after considering the case of the Appellant and after hearing their representative, *vide* impugned Order-in-Appeal No.300/2015 (STA-II) dated 30.10.2015 has upheld the demand and thereby confirmed the OIO. It is against this OIA that the present appeal has been filed before this forum.

4. We have heard Ms. R. Maheswari, Ld. Advocate for the Appellant and Shri M. Selvakumar, Ld. Assistant Commissioner for the Respondent-Revenue.

5. It was contended by the Ld. Advocate that the Assessee *vide* their letter dated 20.07.2009 had communicated to the Superintendent of Central Excise-Service Tax about their inability to collect Service Tax

from their tenants viz. M/s.Apollo Hospitals Enterprises Limited and M/s. Mccoy Clothing and in support in this regard, they had relied on the judgement of Delhi High Court in the case of **Home Solutions**, W.P (C) No.1659/2008 dated 18.04.2009. Further, it was also claimed by them that the Renting of Immovable Property Service (RIPS, in short) is a taxable service with effect from 2010-11 and for the period earlier thereto, there was no justification to hold the non-payment of Service Tax by the Revenue. There was also further reference to the communications inter-se between the Assessee and the Deputy Commissioner of Service Tax [*vide* letters dated 23.07.2010 and 20.08.2009].

6. It was further contended that the Assessee was eligible for deducting the property taxes paid towards the property from the Rental income. They also appear to have drawn reference to Section 99 of Chennai City Municipal Corporation Act, 1919 wherein 'Property tax' has been defined to be any tax collected by local bodies related to the property and it was further submitted that without providing water supply and sewerage

connection to a property the same cannot be rented out and without paying urban land tax, it is not possible to hold the property and hence, water supply and sewerage tax and urban land tax which are paid to local bodies are directly connected to the property which was rented out. In view of the above, it was prayed that the demand raised and confirmed the impugned order be deleted. Without prejudice to the above, it was argued that an Audit was carried out in October 2009, the period of dispute is June 2009 to September 2009; Service Tax demand is for the period June 2009 to February 2010 which was paid by them on 31.03.2010 and 13.04.2010, which was before the issuance of SCN and hence, in terms of Section 73(3), the SCN under Section 73(1) should not have been issued by alleging suppression as the amount stands paid along with applicable interest. In this context, it was also contended that the invocation of extended period of limitation was clearly unjustified.

7. We have considered the rival contentions and carefully perused the documents placed on

record before us; after hearing both the sides, the following issues arise for our consideration:

(1) Whether the Revenue is justified invoking the extended period of limitation on the peculiar facts and circumstances of the case; and

(2) Whether the impugned demand along with interest penalty is correct in law?

8. At the outset and after meticulously considering the facts of the present Appeal, we are of the view that the Revenue has not established a *prima facie* case for invoking the extended period of limitation. We have clearly noted the period of dispute, the dates of payment of taxes along with interest by the Assessee and the date of SCN. From these, we can safely assume that right from 2009 itself, the Revenue was aware of the facts of payment/non-payment/short payment of Service Tax and further, the very fact of the exchange of letters seeking clarification in the light of the decision of Hon'ble Delhi High Court in **Home Solutions** (*supra*) itself reveals that the Department was kept in the loop insofar as the payment of Service Tax on the RIPS was concerned, which should have triggered the Revenue

Authorities to issue SCN at least at that point of time. Hence, the SCN dated 25.05.2011 is clearly barred by limitation since there is no question of fraud or separation, etc. made out by the Revenue. In view of this alone, we are very much convinced that the impugned demand cannot sustain and hence the impugned order whereby the said demand stands upheld, is not in order. We therefore set aside the same on this ground alone and allow the Appeal with consequential benefits if any, as per law.

(Order pronounced in open court on 03.12.2025)

sd/-

**(P. ANJANI KUMAR)**  
Member (Technical)

sd/-

**(P. DINESHA)**  
Member (Judicial)