CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. IV

Service Tax Appeal No. 40278 of 2017

(Arising out of Order-in-Appeal No. 104/2016 dated 27.10.2016 passed by the Commissioner of Central Excise (Appeals-I), Salem)

M/s. Mira Textiles and Industries P Limited ...Appellant
No.611/2A, Hosur Main Road,
Kodiyur Village, Palacode Post,
Salem 636808.

Versus

Commissioner of GST and Central Excise ...Respondent
Salem Commissionerate,
No.1, Foulkes Compound
Anai Medu, Salem 636 001

APPEARANCE :

Shri. M. Karthikeyan, Advocate for the Appellant
Shri N. Satyanarayana, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER No.40843/2026

DATE OF HEARING : 30.06.2026
DATE OF DECISION: 01.07.2026

The appellant is a manufacturer of corrugated paper cartons and paper trays falling under heading number 4819 and 4823 of the Central Excise Tariff Act 1985 and is aggrieved by the Order in Appeal No. 104/2016-ST dated 27.10.2016. The appellant submits that during the period April 2012 to March 2014, the appellant had incurred freight charges for transportation of goods by road. It is the case of the revenue that during the course of verification of accounts of the appellant, it was noticed that they had not paid service tax under reverse charge mechanism (RCM) in terms of Notification Number 30/2012-ST dated 20.06.2012, for availing the services of a GTA.

2. Upon being pointed out the appellant submits that the entire tax demand raised for Rs.4,84,990/- was recouped to the government. The learned advocate further submits that during the course of adjudication proceedings the adjudicating authority confirmed the demand of Rs. 4,20,811/- and imposed a penalty of equal amount in terms of Section 78 of the Finance Act. The learned advocate submits that the balance amount deposited by them was appropriated by the authorities towards interest liability, which they have now paid in full. It is his case that (a) the invocation of extended period in terms of provision Section 73 (1) of the Finance Act 1994 is misplaced as no information was concealed from the department and (b) the aforesaid demand raised was based on the figures indicated in their books of accounts viz., balance sheet and profit and loss accounts, available in public domain. The appellant strongly disputes invocation of penalty also in view of the stated position.

3. The Commissioner (Appeals), vide the impugned order, reduced the penalty imposed by the adjudicating authority to 50% in terms of the provisions of Section 78 (1). However, the grouse of imposition of penalty on the appellant still remains.

4. The learned AR for the revenue justifies the invocation of the penalty stating that the appellant had deliberately concealed the requisite information with intent to evade payment of duty.

5. Heard both sides and perused the records.

6. The contention of the appellant is twofold, (a), that there was no intent for any suppression or willful misstatement etc. and that no sooner the short levy was pointed out, the appellant had made it good along with interest, even before the adjudication of the matter. He submits that the information on which basis the demand has been raised has been culled out by the authorities from their books of accounts and it is a settled position that if the demand is based on balance sheet figures and other documents of the assessee, the demand for extended period on grounds of suppression through concealment with intent to evade payment of duty would not be sustainable.

7. The learned advocate has further pointed out that in any case the position is revenue neutral and they were entitled to avail the credit of the said duty paid which further only reinforces their contention, that there was no intent for evading the payment of duty. He submits that the said question is no more res integra and has been decided in a slew of cases. The appellant has placed reliance on the following case laws, in support of his arguments.

- M/s. Sutherland Global Services Private Limited Vs. Commissioner of GST and C. Ex., Chennai – 2025 (7) TMI 74 – CESTAT CHENNAI

- M/s. Para Enterprises Private Ltd (Formerly M/s Pioneer Wincon Private Ltd.,) Vs. Commissioner of Service Tax – 2023 (9) TMI 812 – CESTAT CHENNAI

- Mahindra Reva Electric Vehicles Pvt. Ltd., (Formerly known as Reva Electric Car Company Pvt. Ltd., Vs. The Commissioner of Service Tax, Bangalore – 2025 (7) 638 – CESTAT Bangalore
- M/s. ITC Limited Vs. Commissioner of GST & C. Ex., Coimbatore – 2025 (6) TMI 1967 – CESTAT CHENNAI
- M/s. Vendanta Ltd., Vs. Commissioner of GST & C.Ex., Tirunelveli – 2023 (9) TMI 1063 – CESTAT CHENNAI.
- Coface India Credit Management Vs Commissioner of CGST (Final Order No. A/85024/2023 dated 10.01.2023).

8. The fact that the authorities have worked out the impugned demand from the books of accounts of the appellant justifies the fact that there was no intent for suppression of the figures on part of the appellant. It is a central proposition in law that the information as derived from the accounts maintained by the assessee cannot be a substantive ground for invoking suppression and therefore invocation of extended period of limitation is uncalled for. The revenue has also failed to demonstrate any positive act on the part of the appellant in their charge for intent to evade payment of duty. Also, it is an admitted position that the situation in any which case would be revenue neutral. It is thus obvious that the question of invocation of extended period goes in favour of the appellant and the demand for the said period is therefore time barred. However, in view of the fact that the appellant has already made good the said amount and is entitled

for credit thereto, the position being revenue neutral, and in order to give quietes to the dispute, I direct status quo ante to be maintained in the matter, as far as payment of duty is concerned. The appellant shall however be entitled to avail credit on the amount paid to the revenue towards duty on this count.

9. As there is nothing substantive to establish concealment of information and suppression on part of the appellant, there is no justification in subjecting the appellant to penal liability. The same is therefore set aside. The order of the lower authority is modified to the said extent.

10. In the result, the appeal filed by the appellant is allowed, in the aforesaid terms.

(Order pronounced in the open court on 01.07.2026)

(RAJEEV TANDON)
Member (Technical)

psd