CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – 2

Service Tax Appeal No. 50124 of 2024

[Arising out of Order-in-Appeal No. 222-223(RLM)ST/JPR/2023 dated 04.09.2023 passed by the Commissioner (Appeals), Central Excise & CGST- Jaipur]

SENIOR POST MASTER **...Appellant**
Head Post Office,
Ajmer, (Rajasthan)

VERSUS

COMMISSIONER OF CENTRAL EXCISE
& CGST-JAIPUR **...Respondent**
NCRB, Statue Circle,
Jaipur - 302005 (Raj.)

APPEARANCE:
Shri M.B. Maheshwari, Chartered Accountant for the Appellant
Shri V.J. Saharan, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.V. SINGH, MEMBER (TECHNICAL)

DATE OF HEARING: 14.08.2025
DATE OF DECISION: 12.09.2025

FINAL ORDER NO. 51332/2025

S.V.SINGH

During audit by the departmental officers, it was observed that M/s Senior Post Master, Head Post Office, Ajmer (Appellant) had collected premium of Postal Life Insurance (PLI) & Rural Postal Life Insurance (RPLI) from the customers but failed to provide proof of payment of service tax on this amount. On being asked, the appellant informed that service tax was paid by the Director (PLI), Kolkata. Vide letter No. PI/Fund A/cs/Service Tax dated 28.08.2019, the office of Director (PLI), Kolkata intimated that Service tax liability on PLI & RPLI for the period July, 2013 to December, 2014 was discharged centrally by Kolkata office and thereafter, w.e.f. 01/01/2025, all the insurant started to pay service tax individually. The department vide show cause notice dated 13.01.2020 alleged that service tax of Rs. 47,05,287/-on both the above activities i.e. PLI & RPLI was not paid by the appellant for the period from 1st January, 2015 to 31st March, 2017 which is recoverable under Section 73(1) along with interest under Section 75 and penalty is imposable on them under Section 78 of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017.

1.1 The said show cause notice was adjudicated vide order-in-original dated 17.11.2021 wherein service tax demand of Rs. 12,57,358/- (including Education Cess) for the period from October, 2016 to March, 2017 was confirmed against the appellant and the remining demand of Rs. 34,47,929/- was dropped for the period January, 2015 to September, 2016. A penalty of equal amount under Section 78 was imposed upon the appellant besides recovery of interest. Against the said order, the appellant filed appeal before the Commissioner (Appeals), intimating therein that after getting clearance from their higher authorities to pay the remaining tax for the period October, 2016 to March, 2017 through cheque, they have deposited service tax of Rs. 12,57,358/- on 17.01.2022. They pleaded that demand of interest on the above service tax amount and equal penalty is against law, which may be set aside.

1.2 Against the above order of the Deputy Commissioner, the department also filed appeal pleading that payment of service tax of Rs. 34,47,929/- for the period January, 2015 to September, 2016 through book adjustment is not proper and therefore, the order is not as per law and may be modified accordingly.

1.3 The Commissioner (Appeals) vide impugned order decided both the appeals. In respect of department's appeal, he observed that payment of service tax on PLI/RPLI through book transfer for the period up to March, 2017 is not disputed at all and in the light of various judicial pronouncements and proviso to Rule 6(2) of the Service Tax Rule, 1994, the matter needs to be verified by the jurisdictional officer. He directed the Adjudicating authority to verify payment particulars to ensure that debit entries made in the books of accounts of postal department are reflected in the credit entry in the books of Ministry of Finance. He did not find merit in the appeal filed by the appellant regarding interest on the confirmed portion of Service tax under Section 75 and equal penalty under Section 78 and rejected their appeal. Aggrieved with the above order, the appellant filed this appeal before the Tribunal.

2. In their appeal, following grounds have been taken:-

a) The amount of Rs. 10,57,358/- is wrongly mentioned in Para 10 and 11(b) of the O-I-A, which should be Rs.12,57,358/-. As such, no payment due from them.

b) Suppression of facts has been alleged against them for imposing penalty and invoking extended period of limitation. Being a department under Government of India, they have no intention to evade any service tax. They rely on following case laws to support their say:-

- Nagar Palika Mandal V. Commissioner of Central Excise, Jaipur-II 2019 (21) G.S.T.L. 516 (CESTAT-Del)
- Krishak Bharti Co-Operative Ltd. Vs. CCE, New Delhi 2019 (24) G.S.T.L. 368 (CESTAT - DEL)
- Ambuj Hotels & Real Estate Pvt. Ltd. Vs. CCE, Allahabad 2019 (24) G.S.T.L. 389 (CESTAT-ALL)
- International Metro Cuil Contractors Vs. Commr. of S.T., Delhi 2019 (20) G.S.T.L. 66 (Trib- Del)
- Tamil Nadu State Transport Corpn. (Coimbatore) Ltd. Vs. CCE, Coimbatore 2019 (28) G.S.T.L. 225 (CESTAT Chennai)
- Surat Municipal Corporation Vs. CCE (2017) 50 STR 265 (GUJ)
- Gujarat State Fertilisers & Chem. Ltd. Vs. CCE, C & ST, (A) Vadodara-1 (2015) 38 STR 1165 (Trib-AHD)
- Centre for Entrepreneurship Development Vs. CCE, Bhopal (2014) 34 STR 373 (Cestat- Delhi)
- CCE v. Software Technology Park of India (2014) 36 STR 1009; (2015) 49 GST 458; 53 Taxmann.com 155 (Allahabad)
- Gadkari Rangayatan v. CST, Mumbai-II (2014) 36 STR 155 (Trib- Mumb.)
- CCE, Indore Vs. Madhya Pradesh Financial Corporation (2014) 33 STR 302 (Cestat, Delhi)
- Greater Noida Industrial Development Authority Vs. CCE, Noida (2015) 38 STR 1062 (Cestat- New Delhi)
- U.P. State Sugar & Cane Devp. Corpn. Ltd Vs. Allahabad (2009) 242 ELT 260 (Cestat, Delhi)
- ONGC Ltd. Vs. Collector of Central Excise, Vadodara (1995) 79 ELT 117 (Cestat, New Delhi)
- Bharat Sanchar Nigam Ltd Vs. CST, Vadodara (2009) 15 STR 352 (Trib- AHD)
- Punjab Ex-Servicemen Corpn. Vs. CCE, Chandigarh (2009) 13 STR 529 (Cestat, Delhi)
- Executive Engineer, Tubewell Div. Vs. CCE, Kanpur (2008) 230 ELT 71 (Cestat, Delhi)
- CCE, Chennai Vs. Chennai Petroleum Corp. Ltd (2007) 211 ELT 193 (SC)

- Surat Municipal Corp. Vs. CCE, Surat (2006) 5 STT 252 (Cestat-Delhi)

c) Penalty under Section 78 is applicable only if fraud, collusion, willful misstatement or suppression of facts or contravention of any provisions of these rules with intent evade payment of duty is present. They relied on the following case laws:-

- Final order No. ST/52613/2018-CU (DB) dated 25.07.2018 of Cestat New Delhi in the case of Rajasthan Housing Board Vs. Commissioner
- Bansal Cylinders & Tubes Ltd. Vs. Commissioner of C. EX., Haldia (2019) 27 G.S.T.L. 243 (Cestat, Kolkata)
- Tamil Nadu Housing Board Vs. Collector of Central Excise, Madras 1994 (74) E.L.T. 9 (SC)
- CCE & ST(LTU) Vs. Oriental Insurance Co. Ltd. (2017) 50 STR 264 (Delhi)
- Shri R. Sukumar Vs. CCE Trichy (2008) 14 STJ 361 (Cestat, Chennai)
- CCE, Aurangabad Vs. Bajaj Auto Ltd. (2010) 29 STT 394 (SC)
- Bharti Tele Ventures Ltd. Vs. CCE, Pune- III (2014) 33 STR 86 (Cestat, Mumbai)
- CCE, Indore Vs. JAS Enterprises (2014) 33 STR 340 (Cestat, Delhi)
- Active Construction Co Vs. CCE & ST, Jamshedpur (2013) 30 STR 73 (Cestat, Mumbai)
- Singh Transporters Vs. CCE, Raipur (2012) 27 STR 488; (2012) 35 STT 27 (Cestat, Delhi)

d) They prayed for setting aside the impugned Order dated 04.09.2023 in its entirety by dropping the demand of service tax, interest and penalty and issue of suitable order for refund of mandatory pre-deposit of Rs.1,25,736/- along with interest.

3. During arguments, learned Advoate mentioned that though in their appeal they have prayed for setting aside the impugned order-in-appeal but they do not want to press against confirmation of demand of service tax and interest thereon. Before the Tribunal, they are against imposition of equal penalty under Section 78 of the Finance Act, 1994. They relied upon the decision of Hon'ble CESTAT Kolkata in the matter of Superintendent of Post office Vs. Commissioner of Central Excise, Guwahati reported as (2017) 4 GSTL 83 (CESTAT Kolkata). They also relied upon various other cases cited supra. Highlighting the decision in the case of Superintendent of Post office (supra), Learned Advocate pleaded that identical facts are involved in this case wherein the Tribunal has held that penalty under Section 78 is not imposable on M/s Senior Post Master. He therefore prayed for setting aside the penalty imposed on his client.

4. Learned AR countering the argument of the appellant mentioned that it is an accepted fact that service tax in this case was not paid in time by the appellant. On being pointed out by the officers during audit, show cause notice was issued to the appellant. Had audit not been conducted in respect of their records, these facts would not have come to the notice and service would have remained unpaid. He stressed that the appellant has deliberately and intentionally not paid service tax on the amounts of PLI/RPLI collected by them and therefore, they are liable to penal action under Section 78 of the Act. He also produced copy of the order passed by the Assistant Commissioner in remand proceedings wherein service tax of Rs. 34,47,929/- for the period January, 2015 and September, 2016 was dropped and demand of Rs. 12,57,358/- has been

confirmed upon the appellant for the period October, 2016 to March, 2017 and as the same was already paid vide challan dated 19.01.2022, it was appropriated. Interest on the service tax amount was confirmed along with equal penalty under Section 78(1) of the Finance Act, 1994.

5. I have gone through the facts of the case and heard the rival submissions. The demand of service tax of Rs. 12,57,358/- has been confirmed upon the appellant in the remand proceedings by the Assistant Commissioner vide Order-In-Original No. 03/GCL/ST/2024-25/AC dated 10.06.2024. He also appropriated the said amount already paid by the appellant. It is settled position that once there is nonpayment of service or delayed payment of service tax, liability to pay interest for the delayed period automatically kicks in. As far as imposition of equal penalty under Section 78 is concerned, I find that the case of the appellant is squarely covered by the decision of CESTAT Kolkata in the case of Superintendent of Post office Vs. Commissioner of Central Excise, Guwahati reported as (2017) 4 GSTL 83 (CESTAT Kolkata). Para 7 of the said judgment are reproduced below:-

> ***"7.*** *Regarding imposition of penalty, the Adjudicating Authority observed that although the appellant is a Central Government Department, maintenance of their accounts and records in a perfunctory manner constitutes unlawful act on their part to defraud the exchequer of its legitimate dues. I am constrained to observe that a Central Government Department paid the tax as per the directions of the office of the Comptroller and Auditor General, by book adjustment. The final accounts have been submitted to the Service Tax authorities. At this juncture, the observation of the Adjudicating Authority against the appellant that they defrauded the exchequer is extremely shocking and the Adjudicating Authority*

should avoid such language in their orders. So, I do not find any material for imposition of penalty and therefore, the imposition of penalties are waived under Section 80 of the Finance Act, 1994."

5.1 As a department of Central Government i.e. Department of Post is involved in this matter, I have no reason to deviate from the above findings and therefore, I waive the penalty imposed under Section 78 on M/s Senior Post Master, Head Post Office, Ajmer under Section 80 of the Finance Act, 1994 and allow their appeal.

6. Appeal allowed.

[Order pronounced in the open court on 12.09.2025]

(S.V. SINGH)
MEMBER (TECHNICAL)

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