CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH – COURT NO.4

Service Tax Appeal No. 52664 Of 2018

[Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-033-18-19 dated 20.04.2018 passed by the Commissioner (Appeals) of Central Goods Service Tax and Central Excise, Bhopal (M.P.)-462011]

Rudra Enterprises : **Appellant**
Ward No. 15, Gram-Dongar
Vijaipur Raghogarh, Distt- Guna
473226 (M.P.)

Vs

Commissioner of Customs Central Excise and Service Tax, Gwalior : **Respondent**
Ward No. 15 Gram Dogar Vijaipur
Raghogarh Guna, M.P. 273226

APPEARANCE:
Shri S. C. Kamra, Advocate for the Appellant
Shri Manoj Kumar, Authorised Representative for the Respondent

CORAM :

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 51358/2025

Date of Hearing:29.08.2025

Date of Decision:29.08.2025

DR. RACHNA GUPTA

The present appeal has been filed to assail the Order-in-Appeal No. BHO-EXCUS-001-APP-033-18-19 dated 20.04.2018 vide which the appellant is held to have been engaged in providing 'Maintenance and Repair Service' for which no abatement was allowed to the appellant and based thereupon the proposed demand of service tax short paid has been confirmed.

2. The brief facts relevant for the adjudication are that the appellant M/s Rudra Enterprises is registered with Service Tax

Department under the category of 'Maintenance and Repair Service'. During the scrutiny of their ST-3 records during the period April 2015 to September 2015, the department observed that the appellant has failed to produce any order/authority/notification allowing them to pay service tax on the value as paid by them which is not the 100% discharge of the appellant's liability. Accordingly, a show cause notice bearing No. 15-17 dated 16.03.2016 was served upon the appellant proposing the demand of service tax amounting to Rs. 8,44,597/- along with interest and the appropriate penalties. The said proposal was initially confirmed vide Order-in-Original No. 13/2017-18 dated 26.12.2017. Appeal against the same has been rejected vide the impugned Order-in-Appeal (as mentioned above). Being aggrieved, the appellant is before this Tribunal.

3. We have heard Shri S. C. Kamra, Advocate and Shri Manoj Kumar, learned Authorized Representative for the Department.

4. Learned counsel for the appellant has submitted that the appellants were providing services of 'Maintenance and Repair' but the value of services rendered was inclusive of the value of goods. Hence, the service rendered was in the nature of Works Contract Service. The appellant was also engaged in supply of Manpower Service. Both the services are eligible for exemption as per the respective amendment in the Notification No. 30/2012-ST, Entry No. 8 and 9 thereof. It is submitted that the appellant's liability as prescribed therein has duly been discharged by the appellant. The remaining respective service tax liability has been discharged by the service recipient, the Gail India Limited, PSU. It is submitted that GAIL India provided a chart to the appellant showing the discharge of

the said liability, however, on 21.04.2018 i.e. one day after the impugned OIA (28.04.2018) was announced. Learned counsel has impressed no objection in case the matter is remanded back for re-consideration in the light of the said chart as the same was not available with the Commissioner (Appeals).

5. At this stage, learned DR has submitted that in fact the activity of the appellant is not Manpower Supply nor it is Works Contract Service. Appellant is registered for providing a Maintenance and Repair Service which is not the subject matter of the Notification no. 30/2012-ST as is relied upon by the appellant. Otherwise, also while filing the ST-3 Returns, the activity rendered is self mentioned as Maintenance Repair Service with no mention of the said notification in the returns. Still partially tax liability has only been discharged. Learned DR has also mentioned that the requisite documents were not produced by the appellant before the Adjudicating Authority. Para 4 of the order-in-original has been referred to.

6. Learned counsel at this stage, has mentioned that all the requisite documents and can readily be produced.

7. Learned DR has endorsed no objection if the matter is remanded back for re-consideration in the light of the all the requisite documents including the chart produced by GAIL.

8. In the light of the submissions and the observations that the adjudicating authorities have confirmed the demand observing the lack of evidence. We accordingly remand back the matter to the original adjudicating authority for re-consideration the issue afresh based on the documents to be produced by the appellant including the chart showing the partial discharge of impugned service tax liability by

GAIL. Appropriate opportunity of hearing and production of documents be provided to the appellant.

9. With these observation and directions, the appeal stands allowed by way of remand.

(Dictated & pronounced in the open Court)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.