

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI  
PRINCIPAL BENCH, COURT NO. 3**

**SERVICE TAX APPEAL NO. 51783 OF 2021**

[Arising out of the Order-in-Appeal No.168(CRM)ST/JDR/2021 dated 28.07.2021 passed by the Commissioner of Central Excise & CGST (Appeals), Jodhpur]

**Shri P. Senthil Kumar,**

**Appellant**

Proprietor, M/s. Coimbatore Earthmovers Hiring Division,  
C/o Manoj Kumar Bohra, No.2, Vakrangi Villa,  
Adarsh Colony, Opp. Hotel Flora, Pulan,  
Udaipur, Rajasthan-313001

Vs.

**The Commissioner of GST and Central Excise-  
Udaipur Commissionerate**

**Respondent**

**Appearance:**

Present for the Appellant : Shri R. Balagopal, Consultant

Present for the Respondent: Ms. Jaya Kumari, Authorised Representative

**CORAM:**

**HON'BLE MS. BINU TAMTA, MEMBER ( JUDICIAL )**

**HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER ( TECHNICAL )**

Date of Hearing/Decision : **19/12/2025**

**Final Order No. 51929/2025**

**Hemambika R. Priya:**

The instant appeal has been filed by the appellant M/s. P. Senthil Kumar against the impugned order dated 28.7.21 wherein the demand of Rs.10,11,717/- was confirmed, along with appropriate penalty and interest.

2. The Revenue department, based on the information received from the income tax department, raised the demand for the period 2014-15 to June 2017 on the differential value between form 26 AS and Profit & Loss statement and the ST-3 returns. The demand was confirmed by the original authority, and thereafter, upheld by the appellate authority.

3. Learned counsel for the appellant submitted that they had paid service tax according to Rule 3 and 4 of the Point of Taxation Rules, 2011. Even though the relevant documents were submitted by the appellant to the original authority these were not considered. He relied on the Madras High Court judgment in **Firm Foundations & Housing (P) Ltd vs Principal Commissioner of Service Tax, Chennai**<sup>1</sup> wherein the High Court had quashed a similar demand and had remanded the issue for fresh assessment based on Rule 3 of the POTR, 2011. Learned Counsel requested that the matter may be remanded.

4. Learned authorized representative reiterated the findings in the impugned order. She submitted that the appellant had not submitted any document or details for verification of their submissions.

5. We have heard the learned counsel for the appellant and the learned authorized representative for the department. It is a settled law that demand cannot be raised on mere difference in the ST-3 and 26 AS statement. We are of the view that the matter needs to be remanded back to the original authority for reconsideration of the matter. The original authority may provide an opportunity to the appellant to submit

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all relevant documents in support of their contentions and hear them in person before deciding the matter.

6. Accordingly we set aside the impugned order, and allow the appeal by way of remand.

**(BINU TAMTA)**  
**MEMBER ( JUDICIAL )**

**(HEMAMBIKA R. PRIYA)**  
**MEMBER ( TECHNICAL )**

Archana