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

SERVICE TAX APPEAL NO. 50771 OF 2021

[Arising out of Order-in-Original No.01/COMMR/ST/UJN/2020-21 dated 07.01.2021 passed by the Commissioner, CGST & Central Excise, Ujjain]

M/s. Pappu Construction **Appellant**
03-Chauhan Bhawan Compound,
Vikhroli West, Mumbai-400083

Vs.

Commissioner, CGST & Central Excise,
Ujjain Commissionerate, **Respondent**
29, Bharatpuri Administrative Area,
Ujjain-456010 (M.P.)

Appearance:
Present for the Appellant : Shri Z.U. Alvi, Advocate
Present for the Respondent: Shri Shashank Yadav, Authorised Representative

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing : 17.02.2026
Date of Decision: 16.03.2026

Final Order No.50359/2026

HEMAMBIKA R. PRIYA

The present appeal has been filed by M/s. Pappu Construction.[1] against the Order-in-Original No. 01/COMMR/ST/UJN/2020-21 dated 07.01.2021 passed by the Commissioner, CGST & Central Excise,

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1. the Appellant

Ujjain, wherein the demand of service tax amounting to Rs.2,83,436/- was confirmed. Penalty of Rs.5,000/- under section 77 of the Finance Act, 1994 was also imposed.

2. The brief facts are that the Appellant was engaged in providing mining services to Madhya Pradesh State Mining Corporation Ltd. They were neither registered nor paying service tax to the Department. An investigation was initiated against the Appellant by the Directorate General of Central Excise Intelligence[2], Regional Unit, Indore. Subsequent to the completion of the enquiry, DGCEI issued a Show Cause Notice dated 03.10.2012 to the Appellant demanding service tax of Rs. 68,63,931/- along with interest and proposed penalty under section 78 of the Finance Act, 1994 for the period 01.06.2007 to 31.03.2011. The Show Cause Notice dated 03.10.2012 was adjudicated by the Commissioner, Indore vide Order-in-Original dated 07.07.2014 wherein the demand of service tax amounting to Rs.61,85,787/- alongwith interest and penalties was confirmed by invoking the extended period under proviso to section 73(1) of the Finance Act, 1994. Aggrieved by the above Order in Original dated 07.07.2014, the Appellant filed an appeal before this Tribunal, which vide Final Order No. 51586/2019 dated 14.11.2019, partially allowed the appeal by way of remand. In this remand order, the Tribunal upheld the demand for the normal period which was mentioned as one year, while setting aside the demand for the extended period. The Commissioner, while following the remand order of the Tribunal vide Order-in-Original dated 07.01.2021, extended the cum-tax value

2. DGCE

benefit and confirmed the demand of Rs. 2,83,436/-along with interest and penalty for the normal period (01.10.2010 to 31.03.2011) which was 18 months from the relevant date. Aggrieved by the impugned Order-in-Original dated 07.01.2021, the Appellant has filed this appeal again before the Tribunal on the ground that impugned order is beyond the scope of and rather contrary to the terms of Tribunal's Remand Order.

3. Learned counsel for the appellant submitted that the Commissioner was bound by the Tribunal's Order of Remand and could not go beyond the scope of remand and accordingly the demand, if any, for only one year period from the date of notice was to be determined. He contended that the Show Cause Notice was originally issued on 03.10.2012 for the period June 2007 to 31.03.2011. Thus, the Show Cause Notice period's outer limit ended on 31.03.2011, and as per Section-73(6), the relevant date i.e. date of filing of six-monthly return for the six month period ending on 31.03.2011 (01.10.2010 to 31.03.2011) would have been 25.04.2011. He further stated that one year period as laid down in Tribunal's Remand Order for issuance of Show Cause Notice for the Show Cause Notice period ending 31.03.2011 would have been 26.04.2011. He stated that since the Show Cause Notice was issued on 03.10.2012, which was clearly beyond one year limit (which ended 26.04.2012) from the relevant date 25.04.2011, and hence was barred by limitation.

3.1 Learned counsel further submitted that even if the Tribunal erred in mentioning “one year normal period" instead of eighteen months, as it stood w.e.f. 28.05.2012 vide Finance Act, 2012, the legal remedy was an appeal against Tribunal's Order for rectifying any error in the Order. This was not the case. He contended that mentioning of one year was not a typographical error of numerical figures, and 'One Year' had been typed in the order in words and not in figures/numerical. Hence, he submitted that confirmation of demand of 18 months was going beyond the remand order. Learned counsel prayed that the demand, Penalty & Interest be dropped by allowing the appeal and setting aside the impugned order.

4. Learned authorized representative for the Department submitted that his submissions were in addition to the findings in the impugned Order-in-Original dated 07.01.2021. Learned authorized representative stated that the Commissioner, after duly considering the correct legal position pertaining to normal period which was 18 months (w.e.f 28.05.2012) from the relevant date during the material period, has held that the intent of the Tribunal was to reduce the demand of service tax from extended period of five years to normal period. He further submitted that the Commissioner had rightly followed the Tribunal's Final Order dated 11.11.2019 by correctly determining the demand for the normal period which was actually 18 months and not one year.

4.1 Learned authorized representative further contended that the Commissioner had correctly followed both the legal position as mandated by the statute as well as the Final Order of the Tribunal by determining the service tax demand for the correct normal period. He also submitted that the Adjudicating Authority as well as the Tribunal, both were creatures of statute, and cannot go beyond the provisions of the statute. He prayed that the appeal may be dismissed.

5. We have heard the learned counsel for the appellant and the learned authorized representative for the Department and perused the records.

6. We note that the Tribunal in its remand order has referred to the normal period to be of one year whereas during the relevant period, the normal period was 18 months. It is a settled legal position that Tribunal can only exercise those powers which the statute confers, but cannot exercise any power in a manner contrary to the statute. In **Eastern Coalfields Ltd.** vs. **Union of India**[3], the High Court of Calcutta held that the Tribunal cannot go beyond the terms of reference. From this, it flows that the Tribunal cannot create a limitation period that does not exist in the statute. If Section 73 of the Finance Act, 1994, has prescribed 18 months at the relevant time, then that has to be considered as binding. In this context, we note that the Courts have consistently held that a judicial or quasi-judicial error in quoting a number (1 year vs. 18 months) does not override the statutory provision. We draw support from the Jharkhand High Court's observation in **Prasad Explosive & Chemicals** vs. **Principal Commissioner, CGST, Jharkhand**[4], wherein it held that a typographical error had cropped in the order and that the same cannot overwrite the remedy available as per statute.

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3. **(2025)181 taxman.com 143-HC-Calcutta**
4. 2024(166)taxman.com 698-Jharkhand

6.1 We note that as per section 73 of the Act, the adjudicating authority is bound by the provisions of the Finance Act. As the Tribunal had upheld the demand for the "normal period," the adjudicating authority must apply the normal period, as per the statute and not the one mentioned in the remand order. While interpreting the said "operative part" of the remand order, we take note of the Tribunal's core finding which was: "The demand is restricted to the normal period of limitation". Hence, the specific mention of "one year" is to be seen as obiter a passing remark or a clerical error. However, the Adjudicating Authority when tasked with calculating the "normal period", is bound by the law that defines that period as '18 months'. Further an order of a Tribunal cannot amend the Finance Act, which has the approval of the Legislature. The Tribunal does not have any power to legislate the period to 12 months from the statutory 18 months. Consequently, we find no infirmity in the order.

7. The impugned order is upheld and the appeal is dismissed.

(Order pronounced on **16.03.2026**)

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana