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

Service Tax Appeal No.53010 of 2023

[Arising of Order-in-Appeal No.64(AK)ST/JDR/2022 dated 01.11.2022 passed by the Commissioner (Appeals), Central Excise and Central Goods and Service Tax, Jodhpur]

M/s. Umed Bhawan Palace, **Appellant**
Palace Road, Kota-324 002.

Vs.

Commissioner of CGST & Central Excise **Respondent**
G-105, New Industrial Area,
Opp. Diesel Shed, Basni,
Jodhpur, Rajasthan-342 001.

Appearance:
Present for the Appellant: Shri Ajay Aggarwal and Shri Madhur Aggarwal, Advocates for the appellant.
Present for the Respondent : Shri Kuldeep Rawat, Authorised Representative for the Department.

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

FINAL ORDER NO. 51291 /2026

Date of Hearing/Decision: 03.08.2026

BINU TAMTA:

1. The appellants are registered with the Service Tax Department under the category of “Mandap Keeper Service” and were paying service tax after availing abatement as prescribed under Notification No.01/2006-ST dated 01.03.2006.

2. Show cause notice dated 19.04.2012 was issued on the ground

that the appellant had availed the facility of Cenvat Credit of duty on inputs/capital goods used for providing taxable service and, therefore, they were not eligible to claim abatement. After adjudication, the matter reached this Tribunal, where the appellant has placed on record the Chartered Accountant's certificate certifying that the appellant had not availed the Cenvat Credit of the input service and in view thereof, the matter was remanded back to the Adjudicating Authority. On remand, the Adjudicating Authority vide Order-in-Original dated 26.02.2021 dropped the demand mentioned in para-2 of the show cause notice of Rs.4,50,557/- out of the total demand of Rs.4,96,591/-. The demand made in paragraphs 3 and 4 of Rs.13,479/- and Rs.6,180/- respectively was paid by the appellant and nothing survives thereto. The demand referred to in para-4 of the show cause notice was reduced to Rs.15,869/- and which is the subject matter of challenged now in this appeal.

3. Heard both the sides and perused the case records.

4. The contention of the learned Counsel for the appellant is that the appellant had no intention to evade the payment of tax. Firstly, referring to the contents of the show cause notice in para-7, he submitted that no specific allegation has been made for invoking the extended period of limitation. In support of his argument, the learned counsel has relied on the decision of the Apex Court in **Uniworth**

Textile Ltd. Vs. Commissioner of Central Excise, Raipur[1].

5. Considering the facts and circumstances of the present case, I find that there is substance in the submissions made by the learned Counsel for the appellant. Substantially, the amount of demand proposed in the show cause notice has been dropped, justifying the case of the appellant. The show cause notice was issued on 19.04.2012 and the demand now under challenge is for the period 2007-2009 and hence the demand is beyond the normal period. It is a settled principle of law that the extended period of limitation can be invoked only, if the ingredients mentioned in the Proviso to Section 73(1) are satisfied. The conduct of the appellant does not justify any such intention on the part of the appellant.

6. Learned Authorised Representative for the Department has referred to the impugned order, wherein it has been specifically noted that the issue of limitation was never contested by the appellant before the Hon'ble Tribunal and only requested for verification of Chartered Accountant's certificate and, therefore, the issue of limitation is not proper and is also not in line with the order of the Tribunal. I do not find any merit in the observations made as the party cannot be deprived of its right to challenge the invocation of the extended period of limitation, particularly when the substantial amount of duty has been dropped.

[1] (2013) 9 Supreme Court Cases 753: (2013) 19 GSTR 246: 2013 SCC Online SC 76

7. In the totality of the circumstances, I set aside the demand of Rs.15,000/- as reduced. I do not find any merit in the impugned order and the same is hereby set aside.

[Operative portion of the order already pronounced in open court]

(BINU TAMTA)
MEMBER (JUDICIAL)

ckp