CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1

SERVICE TAX APPEAL NO. 54847 OF 2023

[Arising out of Order in Appeal No. 35/2022-23 dated 23.01.2023 passed by the Commissioner of Central Tax, Appeals-II, Delhi]

PROGLOGIX RESEARCH AND DEVELOPMENT PVT LTD ....**APPELLANT**
253-254, Vardhman Plaza, J Block
Rajouri Garden, New Delhi-110027

Vs.

COMMISSIONER APPEALS II CENTRAL TAX GST, DELHI .....**RESPONDENT**
Plot No. 2-B, 3rd Floor, EIL Annexe,
Bhikaji Kama Place, New Delhi-110066

Appearance:
Ms. Sangeeta Singh, Advocate for the Appellant
Shri Shashank Yadav, Authorised Representative for the Respondent

CORAM:
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51415 /2026

DATE OF HEARING : 05/08/2026
DATE OF DECISION : 01/09/2026

P.V.SUBBA RAO

1. We have heard learned counsel for the appellant and the learned authorized representative for the revenue and perused the records.

2. The facts of the case after filtering out unnecessary detail are that the M/s Proglogix Research & Development Pvt Ltd.[1] is a company based in Delhi and it owns a website called

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1 **Appellant**

instadubaivisa.com through which various persons living outside India can apply for Dubai(UAE) visa. In order to render this services to its clients, the appellant hired the services of City One Tourism and Travel LLC, Dubai(COTT). There is no dispute that all the clients of the appellant were living outside India and the services rendered by the appellant to them were not taxable. The dispute is regarding the services rendered by COTT to the appellant. The appellant is situated in India and its clients are all over the world but not in India and COTT is situated in Dubai.

3. When the service provider and service recipient are located at different places, the place of provision of service has to be determined as per the Place of Provision of Service Rules, 2012[2] and if the place of provision is in India, service tax has to be paid and if it is outside India, no service tax needs to be paid because it would be outside the taxable territory of India under the Finance Act, 1994[3]. There is no dispute about this legal position.

4. The short point of dispute is whether the services rendered by COTT to the appellant are deemed to have been rendered in India and hence chargeable to service tax under the reverse charge at the hands of the appellant or otherwise.

5. According to the Revenue, the place of provision of service of the services rendered by COTT to the appellant is India as per Rule 3 of the POPS Rules, since the recipient of service was in India.

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2 POPS Rules
3 Act

Accordingly, demand of service tax of Rs.54,17,677/- was confirmed for the period 2016-17 on the appellant under the proviso to section 73(1)of the Act along with interest under section 75 of the Act and an equal amount as penalty was imposed under section 78 of the Act by the Additional Commissioner in his order dated 31.05.2022. This order has been upheld by the Commissioner (Appeals) in his order dated 23.01.2023 impugned in this appeal.

6. According to the appellant, the services provided by COTT is in the nature of intermediary services and, therefore, the place of provision of such services is the location of the service provider i.e, Dubai as per Rule 9 of POPS Rules.

7. Rule 3 and Rule 9 of POPS Rules read as follows:

> **"Place of provision generally.-**
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> **03**. The place of provision of a service shall be the location of the recipient of service:
>
> Provided that in case of services other than online information and database access or retrieval services, where the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service."
>
> **"09.** The place of provision of following services shall be the location of the service provider:-
>
> (a) services provided by a banking company, or a financial institutions, or a non-banking financial company, to account holders;
>
> (b)xxxxxxx
>
> (c)xxxxxxx
>
> (d) Service consisting of hiring of all means of transport other than,-
>
> (i) aircrafts, and

(ii) vessels except yachts

Upto a period of one month"

8. According to the learned Chartered Accountant for the appellant, COTT acted as an intermediary between the appellant and the Government of UAE in facilitating the issue of visas to its clients and, therefore, it's service should be considered as an intermediary service under Rule 9 of POPS Rules. The second submission of the learned counsel is that even if the service is not considered as intermediary service, service tax could have been charged only on the amounts paid as service charges to COTT whereas, the lower authorities have, charged service tax on the entire amounts paid to COTT which included not only the service charges paid to COTT but also the visa fee paid to the Government of UAE. It is his submission that for each application COTT was only paid AED 10 by the appellant. The total amount paid as service charges to a COTT was a very small amount and no service tax could have been charged on visa fee charged by the Government of UAE.

9. Learned Chartered Accountant also contested the demand on the ground of limitation. It is his submission that the show cause notice was issued on 16.10.2020 for the period 2016-17 beyond the normal period of limitation. The appellant was under the honest belief that no service tax was payable and hence had not paid any the service tax. Therefore, there is no evidence of any *malafide* intention of the appellant and extended period of limitation could not have been invoked. For the same reason the penalty under section 78 also cannot be sustained.

10. According to the learned authorized representative the appellant was not registered with the service tax department and had not paid any service tax nor filed any returns and the fact that the appellant had received services from COTT came to light only during investigation and, therefore, there were sufficient grounds to invoke extended period of limitation.

11. As far as the value of the service charges is concerned, the learned authorized representative fairly submits that it was not considered by the lower authorities as to whether service tax could also be charged on the visa fee charged by the Government of UAE.

12. The first question to be considered by us is whether the services rendered by COTT to the appellant were in the nature of intermediary services or not. We have perused the agreement between COTT (referred to as service provider) and the appellant (referred to as company). The settled legal position is that an intermediary service provider is one who facilitates provision of service between two parties. In other words, there should be three parties in which one party facilitates the provision of service by the second to the third party. The agreement in this case was only between COTT and the appellant. The government of UAE was not a party to this agreement at all. COTT assisted the appellant in carrying out its work with the Government of UAE and received a consideration. The Government of UAE was not a party to this agreement. The consideration was also paid by the appellant to the COTT. In fact, para 8 (ii) of the agreement specifically reads "neither party shall assign this

agreement or any part of to any third party without the prior consent of the other party.” Thus, it is NOT a tripartite agreement and both COTT and the appellant were also forbidden from assigning any work to a third party. Such being the case, we have no manner of doubt that the services provided by COTT to the appellant were not intermediary services. Therefore, Rule 3 of POPS Rules, 2012 would apply and the place of provision of service will be the location of the appellant, Delhi. The appellant was, therefore, liable pay service tax on import of services under reverse charge mechanism.

13. As far as the value of service charges is concerned, service tax could only be charged on the service charges paid to COTT. Any amount paid to the Government of Dubai as visa fee through the COTT cannot be a consideration for the services rendered by COTT. Accordingly, the value of services needs to be re-computed and the corresponding service tax.

14. As for limitation, the appellant had not disclosed the details of the services received by it from COTT. It came to light only during audit. We, therefore, find that there is no sufficient ground to invoke extended period of limitation. The service received by the appellant from COTT located outside India, it would not have come to the notice the department as it was not disclosed. Such being the case, we find there is sufficient ground to invoke extended period of limitation.

15. We accordingly, modify the impugned order and allow the appeal in part by setting aside the imposition of service tax on the amounts paid as visa fee for the Government of UAE through COTT.

Service tax should be charged only on the service charges paid to COTT by the appellant. The demand, therefore, needs to be re-computed accordingly. Consequently the amount of interest and the mandatory penalty under section 78 of the Act also need to be re-computed. The appeal is partly allowed and the impugned order is set aside and the matter is remanded to the original authority for the limited purpose of calculation of the amount of service tax interest and penalty.

[Order pronounced on **01/09/2026**]

(DR. RACHNA GUPTA)
OFFICIATING PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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