

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD**

SINGLE MEMBER BENCH - COURT NO. - I

Service Tax Appeal No. 30239 of 2025

(Arising out of **Order-in-Appeal** No.HYD-SVTAX-HYC-APP1-155-23-24 dated 11.01.2024
passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad)

Ranga Reddy Male

Prop: M/s S K Associates, 11-3-185/1,
Sai Nilayam, Venkateswar Colony,
Saroornagar, Hyderabad,
Telangana - 500 035.

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APPELLANT

VERSUS

**Pr Commissioner Of Central Tax
Hyderabad - GST**

7th Floor,
Kendriya Shulk Bhavan,
L B Stadium Road, Basheerbag,
Hyderabad, Telangana - 500 004.

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RESPONDENT

APPEARANCE:

Shri Yashwanth & Shri M. Bhupal Goud, CA for the Appellant.

Shri M. Anukathir Surya, Authorised Representative for the Respondent.

CORAM: HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30535/2025

Date of Hearing: 06.06.2025

Date of Decision: 05.12.2025

The Appellant is in appeal against the Order-In-Appeal No. HYD-SVTAX-HYC-APP1-155-23-24 dated 11.01.2024 (impugned order), passed by Commissioner (Appeals), by which Commissioner (Appeals) upheld the Order-In-Original No. 137/2022-23 dated 08.02.2023 passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad.

2. Learned Adjudicating Authority, adjudicated the matter and passed the order as thus:

a) I confirm the demand of the Service Tax of Rs. 5, 58,299/- (Five Lakh Fifty Eight Thousand Two Hundred And Ninety Nine Only) (inclusive of cess), not paid on taxable services rendered by them, during the financial year 2016-17, under the provision of Section 73 of the Act;

b) I confirm the demand of interest on the aforesaid confirmation tax amount, at appropriate rate, as specified under Section 75 of the Finance

Act 1994 from the date such tax was payable to the date such tax was paid;

c) I impose the penalty of Rs. 5,58,299/- on them under Section 78 of the Finance Act, 1994, for suppressing the material facts from the Department, with an intention to evade payment of service tax;

d) I impose the penalty of Rs. 10,000/- under Section 77(20) of the Finance Act, 1994, for contravening to the provisions of section 70 of the Act read with Rule 7 of the Rules; for violation of provisions of Section 67 of the Finance Act, 1994; for failure to keep, maintain or retain books of account and other documents as required in accordance with the provisions of the Act or the rules made there-under and for contravention of the provision of Rule 5A(2) of Service Tax Rules, 1994 and for failure to pay the tax;

e) I confirm the Late fee of Rs. 4,700/- under Section of 70 of the Finance Act, 1994 read with Rule 7C of Service Tax Rules 1994, on them for late filing of ST-3 return of the period 2026-17(April-September).

3. Learned CA for the Appellant submit that the Appellant is engaged in sub-contract works with State Government works, works providing consultancy services relating to the construction of various civil structures, water supply and drainage pipelines to the Government Projects at Telangana and Andhra Pradesh. During the Financial Year 2016-17, the turnover declared in the Income Tax Returns (ITR) was Rs. 87,18,610/- and the turnover declared in ST-3 Service Tax Returns was Rs. 49,96,617/- and based on the variations in turnover declared in the ITR and ST-3, Notice received from the Learned Adjudicating Authority (AA), wherein, Adjudicating Authority levied the tax of Rs. 5,58,299/- interest, penalty and late fees on the difference amount of Rs. 37,21,993/- between ITR and ST-3 turnover with tax amount of Rs. 5,58,299/- which is void & illegal. The variation between turnover declared in ITR and ST-3 was Rs. 37,21,993/-. Out of the total turnover, value of Rs. 27,01,990/- was directly provided to municipalities and panchayats which were exempted from Service Tax as per Notification No. 25/2012-ST dated 20th June, 2012 and Services in the

nature of sub-contract is provided to main contractors were Rs. 60,16,710/-. But, inadvertently turnover declared in the ST-3 as taxable services was Rs. 49,96,617/- and also paid service tax of Rs. 7,49,492/-. Turnover of Rs. 49,96,617/-, which was declared in ST-3 was sub-contracted from the main contractors, wherein main contractor provides services to the Government by way of construction of water pipeline and drainage pipeline and appellant (sub-contractor) provides indispensable and initial absolute necessary consultancy services for the projects that has to be undergone by the main contractor. Consultancy Services provided by the appellant includes: a) reviewing the existing situation and undertaking assessments. b) Field surveys and preparation. c) Updating of base maps. d) Estimation of water demands. e) Feasibility analysis and detailed planning. f) Surveys, investigations, cost estimation. g) Network maps and asset drawings and h) preparing detailed project reports. The services provided by appellant were the complimentary services, without which the main activity couldn't be done. So therefore, the services provided by the appellant also indirectly falls within the definition provided in the exemption Notification No. 25/2012-ST and eligible for claiming the exemption from the Service Tax.

4. Learned CA for the appellant also submits that Learned Commissioner (Appeals), failed to appreciate the fact that the services provided by the main contractors are in the nature of services as said in the Notification No. 25/12 like providing services to the Government, local authority or a Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of pipeline, conduit or plant for water supply , water treatment or sewerage treatment or disposal and same exemption also applies to the sub-contractors. Learned CA relied on Shapoorji & Company Pvt Ltd., Vs

Commissioner of Central Excise and Service Tax and others [2016(3) TMI 832] Patna High Court.

5. Whereas, Learned AR submits that agreement between main contractor and appellant only for consultancy services for Detailed Project Report (DPR) for water supply. Work contract requires transfer of property in goods involved in the execution of such contract. There is no such agreement or works. Notification No. 25/2012 Service Tax dated 20.06.2012 exempted the services provided to the Government, a local authority or Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alterations of pipe lines, conduct or plant for i) water supply ii) water treatment or iii) sewerage treatment or disposals. As per notification the sub-contractor providing services by way of works contract to another contractor providing works contract services are exempted. Services provided by appellant/sub-contractor are not in nature of work contracts. It is clarified by Circular-Service Tax DOF No. 3334/15/2014 -TRU dated 10.07.2014 that the exemption could not be extendable to other services such as consultancy, designing etc.

6. Learned AR submits that the services provided by the appellant are used by the main service provides for completion of his work does not in any way alter the fact of provision of taxability. Service has given for use as an input service by another service provider, does not alter the taxability of appellant.

7. Learned AR relied on M/s Ashish Kumar Joshi Vs Principal Commissioner of CTGST & Central Excise, Raipur [2024(5) TMI(860)]

8. Heard Chartered Accountant Shri Yashwanth and Department Representative Shri M. Anukathir Surya and perused the records.

9. Appellant provided consultancy service to main service provider. Appellant wants to benefit of exemption, under Notification No. 25/2012 ST dated 20.06.2012 on ground that main contractor are exempted under said notification.

10. The relevant part of above notification as thus:

12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -

(a) omitted

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) omitted

(d) canal, dam or other irrigation works;

(e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) omitted

25. Services provided to Government, a local authority or a governmental authority by way of -

(a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation; or

(b) repair or maintenance of a vessel;

29. Services by the following persons in respective capacities -

(h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

11. As per above notification, it is clear that sub-contractor who are providing service by way of works contract are exempted to pay Service Tax but here no such services. Works contract requires transfer of goods in execution of such services as defined under Section 65B (54) of the Finance Act, 1994 as follow:

65B. In this Chapter, unless the context otherwise requires,

(54) "works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any moveable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;

12. The services provided by appellant are clarified by circular Service Tax – D.O.F. No. 334/15/2014 – TRU dated 10.07.2014 of which relevant para as thus:

ii) "Services ordinarily provided by a Municipality: For greater clarity, the exemption in respect of services provided to Government or local authority or governmental authority [in entry at Sl.No.25], has been made more specific. Services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation will continue to remain exempted but the exemption would not be extendable to other services such as consultancy, designing, etc., not directly connected with these specified services".

13. Learned Counsel relied on Shapoorji and Company Pvt Ltd., supra, facts are different, the service was related to works contract, the sub-contractor was provided construction activity. Hence, in the instant case, services are related to consultancy, which are not under exemption as above Notification & clarification.

14. Learned CA not provided any other citations / decisions as mentioned in written submission. In reply submitted that none of the citations shown in the written submission, the written submission was prepared by an Advocate and even on requesting, the Advocate did not give them. The citations were also not found through online search.

15. Learned AR relied on M/s Ashish Kumar Joshi, supra, decided by Co-ordinate Bench New Delhi, held that the admitted activity of the appellant are providing advisory / consultancy service against receiving a commission from others. Section 66D does not cover this activity. It becomes clear that the services rendered by the appellant are taxable service.

16. No any plea has been taken against period of limitation. Hear there is a clearly suppression of fact, as mentioned in Memorandum of appeal. Therefore, Lower Authority has rightly invoked the period of limitation.

17. As discussed above, no any infirmity or illegality in the impugned order, hence appeal is liable to be dismissed.

18. Appeal dismissed.

(Pronounced in open court on 05.12.2025)

(ANGAD PRASAD)
MEMBER (JUDICIAL)