CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Single Member Bench - Court No. – I

Service Tax Appeal No. 30591 of 2025

(Arising out of Order-in-Appeal No.HYD-SVTAX-HYC-APP1-031-25-26 dt.19.06.2025 passed by Commissioner of Customs & Central Tax (Appeals-II), Hyderabad)

M/s Apoorva IT Solutions Pvt Ltd .... **Appellant**
H.No.8-1-9/P/30, Plot No.29 & 30, Padma Nagar Colony, Karmanghat, Hyderabad – 500 079

VERSUS

Pr. Commissioner of Central Tax Rangareddy - GST .... **Respondent**
H.No.1-98-7-43, VIP Hills, Jaihind Enclave, Madhapur, Hyderabad – 500 081

Appearance
Shri Hari Kishan, CA for the Appellant.
Shri K. Raji Reddy, AR for the Respondent.

Coram:

HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER NO. A/30571/2025

Date of Hearing: 12.12.2025
Date of Decision: 12.12.2025

M/s Apoorva IT Solutions Pvt Ltd (hereinafter referred to as the appellant) are in appeal against the order of the Commissioner (Appeals) dt.19.06.2025, whereby, the Commissioner (Appeals) has partly confirmed the demand of Rs.5,86,659/- and upheld the imposition of penalty under section 77 and 78 of the Finance Act, 1994 (impugned order).

2. The brief facts of the case are that the appellants are engaged in both sale of hardware and provision of service, which was treated as intermediary service by the department. This intermediary service was being provided by the appellant to the entity located outside India and therefore, the department felt that this being an intermediary service and its being provided to an entity outside India, therefore, the location of the service provider will be in India under Rule 9 of Place of Provision of Service Rules, 2012. The DGGI investigated the matter and recorded certain statements

including statement dt.11.11.2019. In their statement, the appellant disclosed that as per the audited balance sheet submitted to Income Tax department, certain turnover in respect of revenue received on account of overriding commission from abroad was also reflected, which was treated as taxable value for providing intermediary service. The total tax for the period 2014-15 to 2017-18 (up to June, 2017) came to Rs.68,92,952/-, out of which they had paid Rs.1,82,310/- during the period 2014-15.

3. Learned Advocate submits that they are not contesting the demand of service tax on merit, however, they are contesting the imposition of penalty under section 78. In support thereof, they are submitting that the appellants were having bonafide belief that the said service was in the nature of export of service and therefore, not liable to service tax during the relevant period. He also submits that they had disclosed all the information to the investigating agency and subsequently, they had also filed and availed themselves of amnesty scheme under SVLDRS. This is in support that they had bonafide belief that no tax was leviable on the said transaction. It is also submitted that ST3 returns for the period October, 2014 to March, 2015 was filed, though the figure pertaining to overriding commission was not reflected in the said ST3 return due to their bonafide belief that the same is not leviable to service tax.

4. Learned AR, on the other hand, points out that while it is true that they had availed themselves of SVLDRS scheme for the period 2015-16 to 2017-18 (up to June, 2017), however, they had not availed themselves of the same for the period 2014-15, which is the subject matter of the present appeal.

5. Heard both sides and perused the records.

6. I find that the issue is lying in a narrow compass to decide as to whether there was any tax liability on the said transaction or otherwise. The appellants have admitted that this was for providing certain services to foreign entity for promoting and supporting their sales in India, which was in terms of agreement with foreign entity and the appellant. Therefore, there is no doubt as far as nature of service is concerned, as upheld by the Commissioner (Appeals) i.e., intermediary service. It is also not in dispute that in case of intermediary service, leviability of service tax will be on the

person providing the service and therefore, the appellant would be liable to pay service tax. The only issue left is whether penalty is imposable in the given factual matrix or otherwise. I find that the entire case has been made based on certain disclosure made by the appellant themselves in the course of statement recorded by the investigating agency. It is also not in dispute that appellants themselves had voluntarily opted for the SVLDRS scheme involving the same issue. There is nothing on record that there was any deliberate attempt or intent on their part to evade payment of service tax. It is also noted that when they had availed themselves of SVLDRS scheme for longer period of time involving higher amount of tax then why they would not have availed the same even for shorter period of six months involving much lesser amount of tax. Therefore, keeping in view all these aspects and holistically evaluating the submissions, I find that there cannot be any ground for imposing penalty under section 78 on the appellant.

7. Insofar as penalty imposed under section 78A on the Director is concerned, as pointed out by the learned AR, the Director of the appellant company on whom this penalty has been imposed, has not come in appeal against the impugned order before Tribunal. In fact, the director had not even gone in appeal before the Commissioner (Appeals) even though he had upheld the entire order except for reducing the quantum of service tax demanded in the original adjudication order. In view of the same, I cannot extend any relief to the person, who has not come in appeal before this Bench.

8. To sum up,

a. The demand of Rs.5,86,659/- is upheld.
b. Penalty under section 77 is upheld.
c. Penalty under section 78 is set aside.

9. Appeal allowed partly.

(Dictated and pronounced in the open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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