CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 22335 of 2015
(Arising out of **Order-in-Original** No.HYD-EXCUSE-001-COM-022-15-16 dated 25.08.2015 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

Shri Sudhakar Goud L .. **APPELLANT**
Proprietor of L S Enterprises
D.No. 2-72, Pashamylaram,
Patancheru, Medak District,
Telangana – 502 307.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Medchal - GST
L.B. Stadium Road,
Basheerbagh, Hyderabad,
Telangana – 500 004.

APPEARANCE:
Shri Lalit Mohan Chandna, Advocate for the Appellant.
Shri V. Srikanth Rao, Authorized Representative for the Respondent.

CORAM: **HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30128/2026

Date of Hearing: 04.11.2025
Date of Decision: 27.02.2026

[ORDER PER: A.K. JYOTISHI]

Shri Sudhakar Goud L, Proprietor of M/s L S Enterprises (hereinafter referred to as appellant) is in appeal against the order of the Commissioner dated 25.08.2015, whereby, the Adjudicating Authority has confirmed the demand raised vide Show Cause Notice dated 09.10.2014.

2. The brief fact of the case is that the appellant is providing, inter alia, manpower recruitment or supply agency service. The Department, based on the copies of Form – 26AS from the Income Tax Department, noticed that they have received certain consideration from number of companies. On further enquiry, they recorded a statement of the appellant, who explained

the said income, as reflected in Form-26AS, are in relation to the provision of Man Power Recruitment or Supply Agency Service and also in relation to supply of tangible goods services before 01.07.2011 and subsequent thereto. It was also noted by the Department that assesse had not filed any ST–3 Returns and has also not produced any challans pertaining to the service tax paid by himduring the period April 2009 to March 2014. However, they ascertain from ACES/NSDL details of service tax already paid by the assessee amounting to Rs. 93,82,527/- before commencement of the investigation i.e. 14.03.2014. It was also alleged that during the period 01.07.2012 to 31.03.2013, the appellant was supposed to pay service tax on 25% of the value of the taxable service in terms of Notification No. 30/2012-ST dated 20.06.2012 and the remaining 75% was to be paid by the service recipient, whereas, the appellant had collected 100% service tax on total value of services rendered to certain companies namely M/s Aries Agro and M/s Hyderabad Chemical Products (P) Ltd., leading to excess calculation of service tax amounting to Rs.3,88,638/- which is liable to be recovered under provision of Section 73(A)(1) of the Finance Act.

3. Further, it was also noticed that the assesse had filed a declaration dated 28.12.2013 under sub-section 1 of Section 107 of the Finance Act 1994 (VCES Scheme), wherein, they had declared the service tax payable by them for the period October 2007 to March 2010 as Rs. 10,22,144/- and the same amount was paid. It was noted that the said declaration was only pertaining to the service provided by the appellant to the M/s Hyderabad Chemical Pvt Ltd., and therefore, the appellant had failed to declare the some value of services rendered by him to various parties as detailed in Annexure 1 and 2 including service provided to M/s Hyderabad Chemical Products Pvt Ltd.

4. The appellant have mainly submitted that they were engaged in supply of manpower to various Corporates, as also, supply of Ambulance to Mylan Lab Ltd., on hire basis. They were also providing weigh bridge service to Inox Air Products and collecting service tax and also supplying grass for laying of lawn for Hyderabad Cricket Association. Their first ground is that the principle of natural justice was not followed. Even though, he appeared before the Commissioner but he could not make any submissions. He is also submitting that the Show Cause Notice was only an allegation based on Form –26 AS statements and it has not clearly brought out it's taxability. It has also been alleged that the method or mode of computation of the service tax demand has not been brought out clearly in the Show Cause Notice and the same has been made out purely based on the total figure of Rs. 1,11,59,935/- as per Form – 26AS after deducting Rs. 88,30,771/- already paid by assesse and issued notice for the balance Rs. 23,29,164/-. Moreover, they have not been given the benefit of exemption of Rs. 10 lakhs value. In so far as demand relating to supply of tangible goods service is concerned, the demand has not adduced any evidence that there was no transfer of right of possession or effective control or otherwise which is crucial for its classification. In so far as supply of grass to Hyderabad Cricket Association is concerned, they claimed that it is a sale and not a service. They have also submitted that extended period could not have been invoked in the facts of the case.

5. Learned AR reiterates the findings of the Commissioner.

6. Heard both the sides and perused the records.

7. We find that the whole case is based on the data collected by the Department from the Income Tax Authorities which showed that they have been receiving certain income from certain companies. On further

verification, they also noticed that though the appellant has not been filing any ST-3 returns, however, they had paid certain service tax. It was also presumed by the Department that they were providing taxable service of Manpower supply and recruitment agency service, as well as supply of tangible goods service. There is no discussion in the Show Cause Notice as to whether the Department had gone through the contracts between the appellant and the companies to whom they were providing so called Manpower Recruitment and supply service. However, we also note that statements were recorded from the appellant and they were asked to explain the said income from which it appeared that they were providing certain Manpower supply and were also paying service tax in relation to supply of services to some of the companies, whereas, they were not paying service tax in relation to some other companies. He is also submitting that in some cases he had not collected service tax at all and in some cases he has not charged service tax separately nor paid service tax. It is also a fact that Department made enquiries with all the service recipients. However, as apparent from Show Cause Notice, some of the recipients only provided ledger accounts etc., whereas some of them did not respond at all. Therefore, without any detailed corroboration and only because certain payments were made to the appellant, the Department has presumed that they have provided a taxable service. No details of any contract or any other documents in support that they had provided a taxable service to these companies from whom they have received certain payments, as reflected in Form AS-26.

8. The Adjudicating Authority has taken into account the submissions dated 20.03.2014 and the enquiries made with 13 service recipients, he also noted that the appellant had not submitted any reply to the Show Cause Notice, however, he had appeared for personal hearing and submitted that

he could not file reply to the show cause notice as he thought that he could submit the reply after discharging the complete liability towards service tax and interest. However, despite giving adjournment, the appellant did not appear before the Adjudicating Authority on the next date of hearing. Hence, he proceeded to decide the matter based on material on record. Therefore, we find that though the Show Cause Notice has been issued and certain statements also recorded, the appellants had not really been given the opportunity to explain their stand. It is nobody's case that the service tax is payable, if the income as shown in Form – 26AS is arising out of taxable service provided by the appellant. However, as the details furnished in the Show Cause Notice is not explicit enough to arrive at the conclusion as to what was the nature of service and the amount received from their service recipient, entire income can be said to be from provision of taxable service. Moreover, the appellant had themselves paid service tax though they had not filed service tax returns. This could be because of his ignorance or it could be because of not being aware about their liability to pay the service tax as the service provider especially when during certain period the payment of service tax was shifted to service recipient.

9. Therefore, we find that in the interest of justice, the appellant should be given a chance to explain the income as reflected in the records and taking into consideration the Show Cause Notice and thereafter he would be required to explain the Adjudicating Authority the nature of service provided for which he has received the said payments with relevant documents and evidence in support thereof. The Adjudicating Authority shall examine this aspect and thereafter come to the conclusion as to what should be the net demand under the two alleged categories of service and also allow adjustment of service tax already paid.

10. In so far as the ground non-invocation of extended period, we find that in the given facts of the case Department has rightly invoked extended period in so much so that the appellants were aware of the liability of the service in respect of services provided by them though they might not be aware of the actual quantum based on their own interpretation of payment. Apparently, they have not paid service tax in respect of some service tax recipient on account of financial difficulty etc. This ground cannot be the basis for non-payment. Therefore, we do not find any reason to set aside the findings of the Commissioner to the extent of invoking of extended period. However, in so far as the quantum of demand confirmed along with interest and penalty, the same is set aside for re-computation after an opportunity is given to the appellant to explain the nature of service vis-à-vis the income reflected in Form – 26AS as taken into account in the Show Cause Notice for raising demand. Further, as it is an old matter this exercise is to be completed within a period of 3 months subject to appellant's furnishing the necessary documents. It is also made clear that the Adjudicating Authority shall give personal hearing before deciding the matter and the appellant shall be required to attend the said hearing along with all the supporting evidence and documents.

11. Appeal allowed by way of remand.

(Pronounced in open court on 27.02.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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