IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75218 of 2025

(Arising out of Order-in-Appeal No. 310/HWH/ST/2024-25 dated 23.08.2024 passed by the Commissioner of CGST &CX, Kolkata Appelas-II 3rd & 4th Floor, Bamboo Villa, 169, A.J.C. Bose Road, Kolkata-700014)

M/s. Laxmi Infra Projects **: Appellant**
(Prop. Sandipan Datta), Boinchi Gram,
Ground Floor, Hooghly,
West Bengal-712135

VERSUS

Commissioner of CGST & CX Howrah Commissionerate, **: Respondent**
3rd & 4th Floor, Bamboo Villa,
169, A.J.C. Bose Road, Kolkata-700014

APPEARANCE:

Shri Ajay Sanwaria, Advocate for the Appellant

Shri D. Sue, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75673/2025

DATE OF HEARING / DECISION: 28.02.2025

Order: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order where in demand of service tax is disputed by the appellant of Rs.28,04,379/- for the period October 2015 to March 2017 by issuance of the Show Cause Notice dated 26-04-2021 which was received by the appellant on 30-April-2021.

2. The facts of the case are that the appellant was engaged in providing works contract services and registered with the Service Tax Department. Appellant was filing the service tax returns declaring taxable services provided by them but the non-

taxable income was not disclosed in ST-3 return filed by the appellant. Based on the information received from Income tax Department in terms of from 26-AS. It was alleged that appellant has shown less income, less turnover of their services rendered during the period 2015-16 and 2016-17.zx

3. Therefore, they have suppressed the taxable value of Rs.5,38,98,838/- and are liable to pay service tax of Rs.80,78,480/- along with interest and pre-imposed penalty. In view of these observations, a Show Cause Notice dated 26-April-2021 was issued which was received by the appellant on 30-April-2021 for demanding service tax as discussed here and above. The matter was adjudicated and the adjudicating authority dropped the demand of Rs.52,74,101/- and confirmed the demand of Rs.28,04,379/- and also imposed penalty. Against the said order, appellant is before us.

4. Without going into the merits of the case, the learned counsel for the appellant submits that the show course notice has been issued based on the information received from Income Tax Department by way of Form 26-AS and no investigation was done thereafter and Show Cause Notice has been issued by invoking extended period of limitation. Therefore, whole of the demand is barred by limitation.

5. On merits is submits that no pre Show Cause Notice consultation was provided as mandated under CBIC Circle No. 1076/02/ 2020, Central Excise dated 19-01-2020. Therefore, the proceedings are not sustainable against the appellant.

6. On the other hand, Ld. Authorized Representative supported the impugned order, heard the parties.

7. We find that in this case, the appellant is filing their ST-3 returns on regular basis and impugned Show Cause Notice has been issued based on information received from Income Tax Department in Form 26-AS recorded thereof. And no detailed enquiry has been made against the appellant and Show Cause Notice has been issued by invoking extended period of limitation.

8. In view of that, we hold that as appellant is filing regular returns and based on third party information, demand cannot be raised against the appellant alleging suppression of facts without any enquiry. In that circumstances, we hold that extended period of limitation is not invocable and admittedly in this case, whole of the demand falls under extended period of limitation. In view of that, we set aside the impugned order for demand of Service Tax and to impose penalty on the appellant.

9. Accordingly, in the demand of service tax and along with interest and imposing penalty on the appellant is set aside.

10. In result, appeal is allowed with consequential relief if any.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

rkp