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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75147 of 2016

(Arising out of Order-in-Appeal No. 25/ST-I/KOL/2015 dated 26.10.2015 passed by the Commissioner of Central Excise (Appeal-I), Kolkata, 169, A.J.C. Bose Road, Bamboo Villa, 4th Floor, Kolkata – 700 014)

M/s. Bose Institute **: Appellant**
P-1/12, CIT Scheme VII M,
Kolkata – 700 054

VERSUS

Commissioner of Service Tax **: Respondent**
Service Tax-I Commissionerate,
180, Shantipally, Rajdanga Main Road,
Kolkata – 700 107

APPEARANCE:

Shri Sushil Kumar Goyal, Chartered Accountant, for the Appellant

Shri Debapriya Sue, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)
HON'BLE SHRI ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER NO. 75799 / 2025

DATE OF HEARING / DECISION: 28.03.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

M/s. Bose Institute, P-1/12, CIT Scheme VII M, Kolkata – 700 054 (hereinafter referred to as the appellant) is an autonomous research institute under the Department of Science and Technology, Govt. of India. The appellant provided instrumental testing through their Central Instrumentation Facility (CIF) to the researchers of research institutes and universities.

2. An investigation was carried out by the officers of the SIV unit of the Service Tax Commissionerate, Kolkata on completion of such investigation, a Show Cause Notice dated 24.10.2008 was issued demanding Service Tax of Rs.7,78,222/- during the period from 01.07.2003 to 31.03.2008

2.1. The said Show Cause Notice was adjudicated vide the Order-in-Original dated 23.12.2009 wherein the Ld. Joint Commissioner of Service Tax has reduced the demand of Service Tax to Rs.2,01,029/-, along with interest. He also imposed equal amount of tax as penalty under Section 78 of the Finance Act, 1994.

2.2. On appeal, the Ld. Commissioner (Appeals) has upheld the demands confirmed in the Order-in-Original dated 23.12.2009 vide the impugned Order-in-Appeal dated 26.10.2015.

3. The appellant has filed this appeal against the impugned order dated 26.10.2015.

4. The Ld. Counsel appearing on behalf of the appellant submits that the appellant is an autonomous unit under the Department of Science and Technology, Govt. of India and they have no intention to evade payment of duty. He submits that it is evident from the records that they have not collected any service tax from their customers. They were under the bona fide belief that the service rendered by them is not liable to Service Tax. Accordingly, it is their contention that the demands confirmed by invoking the extended period of limitation are not sustainable.

4.1. Regarding the demand of Service Tax falling within the normal period of limitation, the appellant submits that the value of clearances during the year 2006-07 is Rs.3,50,085/- and for the year 2007-08 is Rs.4,18,370/- which are below the exemption limit as provided under the relevant Notifications at the time. Accordingly, it is submitted that they are eligible for the exemption and hence no service tax is to be paid by them for the normal period of limitation also.

5. The Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

6. Heard both sides and perused the appeal records.

7. We find that the appellant is an autonomous institute under the Department of Science and Technology, Govt. of India. They were rendering the service of instrumental testing through their Central Instrumentation Facility to researchers. We find that the appellant has not collected any service tax from their clients for the services rendered by them. We also find that the Department has not brought in any evidence to establish that the appellant has intention to evade payment of tax and suppressed any information before the Department. Accordingly, we hold that the demand confirmed by invoking the extended period of limitation is not sustainable and hence, we set aside the same.

8. Regarding the demand of Service Tax for the normal period, we observe that the turnover of the appellant during the financial years 2006-07 and 2007-08 are Rs.3,50,085/- and Rs.4,18,370/- respectively. We find that the value of turnover during

these two financial years is less than the exemption limits of Rs.4,00,000/- and Rs.8,00,000/- available during the respective financial years. Thus, we hold that the appellant is not liable to pay service tax during the normal period of limitation also since their turnover is less than the threshold exemption limit as provided under the respective Notifications issued during the relevant period.

9. As the demands itself are not sustainable, the question of demanding interest and imposing penalties does not arise.

10. In view of the above, we set aside the impugned order and allow the appeal filed by the appellant with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sd/-
(ANGAD PRASAD)
MEMBER (JUDICIAL)

Sdd