

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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.75053 of 2020

(Arising out of Order-in-Appeal No.154/HWH/ST/2019-20 dated 30.07.2019 passed by Commissioner of CGST & Central Excise (Appeals), Kolkata-II.)

M/s. Hindustan Windows Mfg. Co.
(Kalitala, Baltikuri, Dasnagar, Howrah-711105.)

...Appellant

VERSUS

Commissioner of CGST & CX, Howrah Commissionerate
.....Respondent
(15/1, Strand Road, Custom House, M.S. Building, Kolkata-700001.)

APPEARANCE

Ms. Shreya Mundhra, Advocate for the Appellant (s)
Shri S.Dey, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)

FINAL ORDER NO. 75949/2025

DATE OF HEARING : 17.04.2025
DATE OF DECISION : 17.04.2025

R. MURALIDHAR :

The Appellant has received Legal Services during the period 2015-16 from the service provider who is based in Jammu & Kashmir. On the ground that the Appellant has not discharged the Service Tax liability on RCM basis, a Show Cause Notice dated 06.08.2018 (served on 27.08.2018) came to be issued demanding the Service Tax on RCM basis by invoking the extended period provisions.

2. The Adjudicating authority after due process, confirmed the demand. On Appeal, the same was dismissed by the Commissioner(Appeals). Being aggrieved, the Appellant is before the Tribunal.

3. The Ld.Counsel appearing on behalf of the Appellant takes the following points to raise :

(a) The service has been provided by an entity situated in Jammu & Kashmir. In terms of Section 64(1) no Service Tax is payable when the service is rendered in Jammu & Kashmir.

(b) The services were utilized during the period 2015-16 and the Show Cause Notice has been issued only on 27.08.2018 by invoking the extended period provisions.

4. The Ld.Counsel submits that the details of legal charges paid by the Appellant was recorded in their Books of Accounts and hence no suppression can be alleged by the Revenue.

5. The Ld.AR for the Revenue reiterated the findings of the lower authorities and justifies the confirmed demand.

6. Heard both sides and perused the appeal papers.

7. I find that without any dispute the service has been rendered by the service provider who is registered and situated in Jammu & Kashmir. In terms of Section 64(1) no Service Tax is required to be paid by them. Only when the Service Tax is payable on any service, the same can be demanded on RCM basis from the recipient of the service. Therefore, on merits I allow the Appeal.

8. I also find force in the Appellant's arguments that they have declared all the details of legal charges in their Books of Accounts. Therefore, the Department has not made out any case of suppression on the part of the Appellant. The Show Cause Notice has been issued after more than two years. Therefore, I hold that the confirmed demand is time barred.

9. Thus, the Appeal stands allowed with consequential relief to the Appellants, if any, as per law.

(Dictated and pronounced in the open Court.)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)