IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 269 of 2011

(Arising out of Order-in-Original No. 01/COMMR./CE/KOL-III/2011-12 dated 05.04.2011 passed by Commissioner of Central Excise, Kolkata-III)

Commr.of Service Tax, Kolkata
(180, Shantipally, Rajdanga main Road, Kolkata-700107)

Appellant

versus

M/s. Haldia Logistics Pvt. Ltd.
(135, Biplabi Rash Behari Bose Road,
1st floor, Kolkata-700001)

Respondent

With

Service Tax Appeal No. 273 of 2011

(Arising out of Order-in-Original No. 01/COMMR./CE/KOL-III/2011-12 dated 05.04.2011 passed by Commissioner of Central Excise, Kolkata-III)

M/s. Haldia Logistics Pvt. Ltd.
(135, Biplabi Rash Behari Bose Road,
1st floor, Kolkata-700001)

versus

Commr.of Service Tax, Kolkata
(180, Shantipally, Rajdanga main Road, Kolkata-700107)

APPEARANCE :
Smt. K. Kalpana, Authorized Representative for the Appellant/Revenue
Shri Aditya Dutta, Advocate, for the Respondent/Appellant

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76417-76418/2025

Date of Hearing :5th May 2025
Date of Decision : 5th May2025

PER R. MURALIDHAR

Haldia Logistics Pvt Ltd [HLPL] is providing Cargo Handling Service and other services related to import and export services. Some audit points were raised towards the services provided during 2004-05 and 2006-07. Subsequently, a Show Cause Notice was issued on 12/10/2009 demanding Service Tax of Rs.1,21,77,234/- along with Education Cess amounting to Rs.2,43,543/-. The Adjudicating Authority has bifurcated the demand under four categories and got the documentary evidence provided by the appellant verified, and after considering the statutory provisions, he has confirmed the demand of Rs. 1,46,523/- under the category of "Import Cargo Handling Service" and Rs.59,539/- under "MRA" Services and Rs. 51,000/- under the category of "GTA Services". Being aggrieved, the Revenue has filed their appeal. HLPL is not contesting the confirmed demand on "Cargo Handling service" and "MRA Service", but is aggrieved by the demand of Rs. 51,000/- confirmed in respect of GTA Services. Therefore, they have filed their Appeal. Both the Appeals have been taken up together for disposal by the Bench.

2. The Learned AR appearing on behalf of the Revenue submits that while the Show Cause Notice was given demanding Service Tax to the extent of Rs.1,21,77,234/- along with Education Cess of Rs.2,43,543/-, the Adjudicating Authority has not addressed the entire quantification and has taken up only partial demand of Rs.1,15,64,070/- and disposed the Adjudication order. Apart from this, he has not given any detailed findings as to how he has set aside the demand on account of GTA Services without proper verification. The OIO does not show as to whether any declaration towards Cenvat Credit not being taken was verified or not. Details of verification towards the consignments with freight value of less than Rs.750, is not found in the Order. All these issues make it clear that this is not a proper speaking order issued by the Adjudicating Authority. She submits that proper verification is required to be taken. Accordingly, she prays that the matter may be remanded to the Adjudicating Authority.

3. The Learned Advocate appearing on behalf of HLPL submits that though clear bifurcation was not given in the Show Cause Notice with the proper quantification of value and Service Tax in respect of various services, still the appellant has provided all the documentary evidence whereupon the Adjudicating Authority has classified the services under four different categories. All the facts were verified with the documentary evidence submitted by them. In view of such detailed verification, he has come to conclusion that the appellant is required to pay Rs. 1,46,543/- under the category of Cargo Handling Services and Rs. 59,539/- under the category of MRA Services and dropped the balance demanded amount. The appellant has accepted this quantification and they have paid the same which has been

appropriated in the OIO. Further, the Adjudicating Authority has confirmed the demand of Rs. 51,000/- on account of GTA services which is being contested by the appellant. He submits that the Adjudicating authority has not considered and given the benefit of tax exemption in respect of freight bills which are below Rs. 750/-. If such details are considered, the appellant is not required to pay Rs.51,000 as has been confirmed by the Order-in-Original. Hence, he prays to allow the appeal.

4. Heard both sides and perused the appeal papers.

5. We find that the Show Cause Notice has been issued demanding Service Tax of Rs. 1,21,77,234/- along with Education Cess of Rs. 2,43,543/- without any specific bifurcation of the demand under various categories of services. Annexure I, II and III have been attached with the Show cause Notice, the same are extracted below:-

A7

Annexure - I

Statement of Bills and realized amount for providing taxable service to M/s. R.V. Logistics by M/s. HLPL during the year 2004-05:-

Sl No.	Bill No. & Date	Billed amount Rs.	Amount realized Rs.
1	HLPL/RV/01/2004-05 dtd. 03.02.2005	660824	
2	HLPL/RV/02/2004-05 dtd. 19.02.2005	414426	
3	HLPL/RV/03/2004-05 dtd. 23.03.2005	1510625	
4	CB00021 dtd. 29.03.2005		1000000
5	CB00022 dtd. 29.03.2005		1000000
6	CB00023 dtd. 29.03.2005		500000
7	JV000006 dtd. 31.03.2005		54070
	Total	2585875	2554070

S.T. payable @ 10% on Rs. 2554070 = Rs. 255407
E. Cess @ 2% on Rs.255407 = Rs. 5108

Calculation sheet of the amount realized by M/s. HLPL from their clients for providing Export Cargo Handling Services during the period 2004-05:

Sl.No.	Name of the clients	Amount in Rs.
1	M/s. S. Dey	200000
2	M/s. Venus Shipping Consultancy Service	200000
	TOTAL	400000

A8 (11)

Annexure-II

Calculation Sheet of the amount realized by M/s. Haldia Logistics Pvt. Ltd. from their clients for providing Export Cargo Handling services during the period 2005-06:

Sl. No.	Name of the Clients	Amount in Rs.
1.	M/s. Commet Engineering	82,61,000
2.	M/s. Hindustan International	1,00,000
3.	M/s. Lotus	50,25,240
4.	M/s. Venus Shipping	7,00,000
		Rs. 14086240

Details of advance received by M/s. Haldia Logistics Pvt. Ltd. from their clients for providing services during the period 2005-06:

Sl No.	Name of the clients	Amount in Rs.	Date of Advance
1.	M/s. Simbha Associates	100000	13.12.2005
2.	M/s. Nagreeka Exports Ltd.	100000	03.03.2006
3.	M/s. Lilas Minaz Minerals	100000	06.03.2006
4.	M/s. P.K.S. Ltd.	300000	28.11.2005
5.	M/s. P.K.S. Ltd.	300000	13.12.2005
6.	M/s. P.K.S. Ltd.	500000	21.03.2006
7.	M/s. P.K.S. Ltd.	1000000	27.03.2006
		Rs. 2400000	

(2)

Contd. to P-2.

A9 (7)

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Calculation Sheet of the amount realized by M/s. Haldia Logistics Pvt. Ltd. from their clients for providing different services during the period 2005-06

Sl No	Name of the Clients	Amount realized for the Different services provided				
		Port Services	Import Cargo Handling	Storage & Warehousing	MRA	Total
1	International Sea Ports D	1087500	-	-	-	1087500
2	National Oil & Service	181376	-	-	-	181376
3	V.K. Udyog D	1028904	-	-	-	1028904
4	R.V. Logistics D	2435760	-	-	-	2435760
5	Orissa Iron D	2413909	-	-	-	2413909
67	Fair Deal D	1042664	-	-	-	1042664
7	Chowgule D	2300736	-	-	-	2300736
8	Inter Ocean Shipping D	734000	-	-	-	734000
9	Forbes Gokak D	10000	-	-	-	10000
10	Emars Mining D	5272381	-	-	-	5272381
11	Hindustan International	-	-	300000	-	300000
12	Usha Martin D	476995	-	-	12235	489230
13	Tata Chemicals D	612300	3184285	-	-	3796585
14	Kabita Construction D	-	51500	-	-	51500
15	HLL D	111800	182205	-	-	294005
	TOTAL					21438550

21.43

Annexure – III 50 (5)

Statement of sale bills in respect of M/s. Haldia Logistics Pvt. Ltd. for the year 2006-07, for tax is not paid

Sl. No.	Name of the Party	Invoice No. & date	Name of service provided	Billed Amount	Remarks
1	M/s. Tata Chemicals Ltd.	TCL/49 dtd. 05.04.06	Cargo Handling Service (Import)	18600	
2	-do-	TCL/50 dtd. 08.04.06	-do-	23998	
3	-do-	TCL/51 dtd. 26.04.06	-do-	615048	
4	-d0-	TCL/52 dtd.26.04.06	-do-	91610	
5	-do-	TCL/53 dtd. 26.04.06	-do-	109800	
6	-do-	TCL/54 dtd. 26.04.06	-do-	33713	
7	-do-	TCL/55 dtd. 10,05.06	Port Services	34400	
8	-do-	TCL/56 dtd. 09.06.06	Cargo Handling Service (Import)	28000	
9	-do-	TCL/57 dtd. 13.06.06	-do-	103000	
10	-d0-	TCL/58dtd. 13.06.06	-do-	89322	
11	-do-	TCL/59 dtd. 29.06.06	-do-	38150	
12	-do-	TCL/60 dtd. 29.06.06	-do-	87150	
13	-do-	TCL/61 dtd 29.06.06	-do-	287953	
14	-do-	TCL/62 dtd 29.06.06	-do-	794796	
15	-do-	TCL/63 dtd 29.06.06	-do-	5158	
16	-do-	TCL/64 dtd 28.07.06	-do-	775601	
17	-do-	TCL/65 dtd 28.07.06	-do-	51089	
18		TCL/66 dtd.28.07.06		4300	
19		TCL/67 dtd.28.07.06		2150	
20		TCL/68 dtd. 01.08.06		8987	
				3202825	

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Sl No.	Name of the Party	Invoice No. & date	Name of service provided	Billed Amount	Remarks
	M/s Tata Chemicals Ltd.	TCL/69 dtd. 03.08.06	Cargo Handling Service (Import)	30858	
[illegible]		TCL/70 dtd. 24.08.06		634278	
24		TCL/71 dtd. 11.09.06		4300	
25		TCL/74Adtd. 28.09.06		241579	
26		TCL/78 dtd. 28.09.06		10450	
27		TCL/82 dtd. 30.09.06		1549	
28		TCL/85 dtd. 13.10.06		24000	
29		TCL/87 dtd. 16.10.06		49647	
30		TCL/89 dtd. 20.10.06		160770	
31		TCL/100 dtd 06.11.06		2150	
32		TCL/101 dtd. 06.11.06		177750	
33		TCL/103 dtd. 02.11.06		164462	
34		TCL/104 dtd. 14.11.06		180512	
35		TCL/107 dtd. 20.11.06		28000	
36		TCL/108 dtd. 23.11.06		117377	
37		TCL/111 dtd. 30.11.06		103401	
38		TCL/112 dtd. 06.12.06		96906	
39		TCL/115 dtd. 30.12.06		306265	
40		TCL/118 dtd. 15.01.07		4300	
		TCL/120 dtd. 01.02.07		160505	
				2499059	

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	Name of the Party	Invoice No. & date	Name of service provided	Billed Amount	Remarks
	M/s. Tata Chemicals Ltd.	TCL/128 dtd 26.02.07	Cargo Handling Service (Import)	148852	
	-do-	TCL/132 dtd. 26.03.07	-do-	69919	
	M/s. Kabita Construction	KC/00001 dtd. 14.07.06	-do-	4337	
	M/s. S.P. Minerals	SPL/00001 dtd 06.10.06 to 00006 dtd. 02.03.07	Storage & Warehousing Services	135000	
45	M/s. Fairdeal Supplies (P) Ltd.	Misc/16 dtd. 08.06.06	Port Service	956108	
				1314216	

Total of P-1 Rs.3202825

Total of P-2 Rs.2499059

Total of P-3 Rs. 1314216

Grand Total Rs. 7016100

Less : Rs. 42598 (till 18.04.06 for which S.Tax is 10%)

Rs. 6973502 (for which S.T rate is 12%)

Total S. Tax payable Rs.836820.24 + Rs. 4259.80 = Rs. 841080.04

E. Cess payable Rs. 16821.60

6. From the above extracts, it can be observed that in case of the Table 2 at Annexure I and Annxure II the Service Tax has not been quantified. The Annexure III has some Value and Service Tax amount. There is no summary showing the category-wise Service Tax element in respect of the three Annexures taken together. On the point raised on account of GTA services by the Revenue, we do not find any quantification in the Annexures.

7. In respect of the quantification of amounts realized given under Page 49 of the Appeal Paper, it is seen that there is no Service Tax reference. Coming to the Annexure-III, there is reference of Cargo Handling Service and Storage warehouse serivce without specific service-wise quantification of Service Tax. On the other hand, we find that the Adjudicating authority in the Discussions and Findings portion of the impugned Order, has bifurcated the demand under four different categories of services and has dealt with the documentary evidence submitted in respect of these services and he has come to a conclusion to drop and confirm the demand under various categories.

8. We find that the Show Cause Notice has been issued in a very casual manner without proper quantification of Service Tax under various headings. This being so, we do not find any error with the Adjudicating Authority who has bifurcated the demand and come to conclusion. We do not find any reason to interfere with the detailed findings of the Adjudicating Authority. Since the matter pertains to the year 2004-05 and 2005-06, we do not find any reason as to why it should be remanded once again to the Adjudicating Authority to undertake the entire exercise once again after two decades. Accordingly, we dismiss the appeal filed by the Revenue.

9. Coming to the appeal filed by the appellant, we do not find any reason to direct the adjudicating authority to take up the verification in respect of the confirmed demand of Rs. 51,000/- since it will be a time consuming and will be a very difficult exercise, as the issue is about two decades old. Therefore, we dismiss the appeal of HLPL on this ground.

10. Thus the Appeal filed by the Revenue and the Appeal filed by HLPL are dismissed.

(Dictated and pronounced in the open court.)

Sd/-

(R.Muralidhar)
Member (Judicial)

Sd/-
(K. Anpazhakan)
Member (Technical)

Pooja