

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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75775 of 2025

(Arising out of Order-in-Original No. 27/ST/Commr./Audit/Ranchi dated 28.03.2024 passed by the Commissioner (Audit), Customs, Central G.S.T. and Central Excise, Ranchi, 4th to 6th Floors, Grand Emerald, Ashok Nagar, Ranchi – 834 002)

Maninder Singh

5B. Singar Nagar, Alambagh,
Lucknow, Uttar Pradesh – 226 005

: Appellant

VERSUS

Commissioner of C.G.S.T. and Central Excise,
Patna Commissionerate

: Respondent

APPEARANCE:

Shri Manish Rastogi, Advocate, for the Appellant

Shri S.K. Jha, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NO. 76595 / 2025

DATE OF HEARING: 17.06.2025

DATE OF DECISION: 20.06.2025

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the demand of Service Tax, along with interest and penalty, has been confirmed against the appellant.

2. The facts of the case are that the appellant was engaged in providing transportation service during the period from April, 2016 to June, 2017. On the basis of investigation conducted at the end of the service recipient viz., M/s. Tata Motors Limited and information received from the Income Tax Department, it was alleged that the appellant had received certain amounts towards provision of

services, but had not paid Service Tax thereon to the Department.

3. In view of this, a Show Cause Notice was issued to the appellant, to demand Service Tax. It was alleged therein that the appellant did not provide the relevant documents and therefore, the assessment was done on the basis of 'best judgement assessment'.

4. The matter was adjudicated and accordingly, vide the impugned order, the demand of Service Tax, along with interest and penalties, was confirmed against the appellant.

5. Aggrieved from the said demand, the appellant is before us.

6. The Ld. Counsel appearing on behalf of the appellant submits that the impugned Show Cause Notice has been issued to the appellant on the basis of information received from the Income Tax Department in respect of Tax Deductions made at Source (TDS). It is his submission that on the basis of TDS shown in Form 26AS of the Income Tax Department, Service Tax cannot be demanded from an assessee, as has been held by this Tribunal in the case of *Balajee Machinery v. Commissioner of C.G.S.T. and Excise, Patna-II* [2022 (66) G.S.T.L. 440 (Tri. – Kolkata)].

6.1. He further submitted that the appellant was engaged in providing transportation service to M/s. Tata Motors Limited and M/s. Tata Motors Limited has paid the Service Tax under reverse charge mechanism in terms of Notification No. 30/2012-S.T. dated 20.06.2012; under these circumstances, he

contended that the appellant is not liable to pay Service Tax.

6.2. The Ld. Counsel for the appellant further submitted that for the period from April, 2016 to June, 2017, the Show Cause Notice has been issued to the appellant on 22.10.2021, which is highly time barred. As the activity involved is of goods transport agency, on which the appellant is not liable to pay Service Tax, he submits that no allegation can be made against the appellant that the appellant has suppressed the facts from the Department.

7. On the other hand, the Ld. Authorised Representative of the Revenue reiterated the findings in the impugned order.

8. Heard the parties and considered their submissions.

9. We find that in this case, the demand of Service Tax has been raised against the appellant on the basis of Form 26AS received from the Income Tax Department, as per which it is alleged that the appellant has provided services, but not paid any Service Tax for the said services. The period involved in this case is from April, 2016 to June, 2017 and the Show Cause Notice has been issued on 22nd October, 2021. There is no basis in the Show Cause Notice for the allegation with regard to suppression of facts from the Department. In fact, the source from where the Revenue got the information, was available with them since 2016-17 itself. Thus, it cannot be alleged that the appellant had suppressed the facts of providing the said services and not paying Service Tax. Therefore, we hold that the extended period of limitation is not invocable against the appellant.

10. Further, we observe that the impugned demand has been raised on the basis of Form 26AS provided by the Income Tax Department. In this regard, we are of the view that without conducting investigation, no demand can be raised against an appellant.

11. We also take note of the fact that in terms of Notification No. 30/2012-S.T. dated 20.06.2012, the service recipient has paid the Service Tax under reverse charge mechanism and in support of that, a certificate has been issued by the service recipient. For better appreciation of the facts, the same is reproduced below: -



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To Whomsoever it may concern

This is to certify that M/s. G S TRANSPORT CORPORATION having vendor code no. G80460, holding Service Tax Registration No. AXSPS1147BSD001, PAN No AXSPS1147B has provided Goods Transport Agency Service to us for the Invoices mentioned in Exhibit 'A'. Proprietor of M/s. G S TRANSPORT CORPORATION is Mr. Maninder Singh. As per the provisions governing levy of service tax, we have discharged service tax under Reverse Charge.

This certificate is issued on specific request of M/s G S TRANSPORT CORPORATION w.r.t. invoices covered in Exhibit 'A'

Place-Pune

Date-17 February 2022

For Tata Motors Ltd.

RAJESH
VIJAYKUMAR
GOUD

Digitally signed by
RAJESH VIJAYKUMAR
GOUD
Date: 2022.02.17
16:14:44 +05'30'

(Authorized Signatory)

TATA MOTORS LIMITED
Pimpri, Pune 411 018
Tel 91 20 6613 1111

Registered Office Bombay House, 24 Homi Mody Street, Mumbai 400 001
Website: www.tatamotors.com
CIN - L28920MH1945PLC004520

11.1. From the above, we find that the appellant was engaged in the activity of providing transportation service, as a goods transport agency, for which the service recipient was required to pay Service Tax under reverse charge mechanism, which has already been paid by the service recipient viz. M/s. Tata Motors Ltd., in this case.

12. In these circumstances, we hold that no demand is sustainable against the appellant. Consequently, no penalty is imposable on the appellant.

13. In these terms, we set aside the impugned order and allow the appeal, with consequential relief, if any, as per law.

(Order pronounced in the open court on **20.06.2025**)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd