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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75991 of 2024

(Arising out of Order-in-Original No.29/ST/Commissioner/2023-24 dated 27.03.2024 passed by Commissioner of Central Tax(Audit), Patna)

M/s. Saryug Gautam Constructions (P) Ltd. **: Appellant**
Ground Floor, Ward 35, Yamuna Enclave Gali, Kankarbagh Main Road, Patna-800 020.

VERSUS

The Commissioner of Central Tax (Audit), Patna **: Respondent**
4th Floor, Central Revenue Building, Birchand Patel Path, Patna-800 001.

APPEARANCE:

Shri Nitin Kumar Pasari, Akshat Agarwal, Gaurav Kaushalesh, Advocates 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. 76867 / 2025

DATE OF HEARING :19.06.2025

DATE OF DECISION: 09.07.2025

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order demanding Service Tax of Rs. 3,40,07,010/- for the period 2016-17 to June 2017. The appellant was engaged in the rendering services of Works Contract Services to their clients . On the basis if intimation received from Income Tax Department through Form 26AS that appellant is providing services on which tax has been deducted at source therefore, on that intimation a pre consultation notice was issued to the appellant on 28.09.2021 to appear on 29.09.2021 and immediately thereafter on 12.10.2021 the Show

Cause Notice was issued to the appellant by invoking extended period of limitation.

2. The matter was contested by the appellant that appellant is being providing services to the various Government Department. The exemption under entry No. 12 A in meganotification No. 12/2025 ST dated 20.06.2012 was withdrawn w.e.f.01.03.2015. Therefore, appellant has suppressed the material facts from the Department. Consequently, Show Cause Notice was issued and demand of Service Tax was confirmed against the appellant.

3. The Ld. Counsel for the appellant contends that the appellant was in a activity of providing works contract services to various Government Department namely the works like construction of hostel and staff quarters, MG Medical College and Hospital at Jamshedpur, Construction Airport hangers building at district Dumka, Construction of BAR Bhawan at Gumla, Construction of BIT Sindri Boys Hostel at Dhanbad, Construction of Main Boundary wall of Green pass, Main Branch in Ranchi, Construction of various quarters alongwith boundary wall at Jamshedpur and many others. All these works has been executed by the appellant on behalf of the various Government Department and as per mega Notification No. 25/2012 ST dated 01.06.2012 at Serial No. 12 A, the appellant was entitled to avail benefit of exemption notification as most of the agreement was entered prior to 01.03.2015. In that circumstances, the extended period of limitation is not invokable.

4. To support this contention he relied on the decision of this Tribunal in the case of Kalsi Buildcon Private Limited versus Commissioner of CGST and Central Excise, Ranchi vide Final Order No.

77206/2024 dated 24.10.2024 to say that extended period of limitation is not invokable. It is further submitted that whole of the demand has been raised on the basis of information received from the third party and no investigation has been conducted at the end of the appellant therefore, no demand is sustainable against the appellant. In view of this it is the contention of the Ld. Counsel of the appellant impugned order is to be set aside.

4. On the other hand Ld. Authorized Representative supported the impugned order and submits that appellant has supressed the material fact by claiming the benefit under Entry No. 12A of Notification 25/2012 ST dated 20.06.2012 . The said exemption has been withdrawn w.e.f. 01.03.2015 . Therefore, appellant is liable to pay tax.

5. Heard the parties. Considered the submission.

6. We find that a similar issue came up before us in the case of Kalsi Buildcon Private Ltd. (Supra) wherein the facts of the case are as under:

"*2. The facts of the case are that the appellant are registered with the respondent for providing services in the nature of 'construction service other than residential complex', works contract service and other than the 119 listed services. It was alleged that for the period from 2014-15 up to June, 2017, the appellant did not pay Service Tax to the tune of Rs. 1,08,92,109/- on the construction services carried out for the State of Bihar.* "

7. And in the above set of facts this Tribunal observed as under:

"*6. We find that the appellant has relied on the Notification No. 09/2016-S.T. dated 01.03.2016 to say that the amendment was applicable retrospectively with effect from 01.03.2015, but the* *same is not applicable to the appellant's case in the light of the decision in the case of Rajesh Plastic Industries (supra) and Indian Rayon & Industries Ltd. (supra).*

6.1. We agree with that contention of the appellant, but the Ld. Counsel for the appellant has forgotten to consider the Notification No. 06/2015-S.T. dated 01.03.2015 which was applicable with effect from 01.04.2015. In these circumstances, on merit, the appellant is having no case.

7. We further take note of the fact that in this case, there were confusions with regard to the service rendered to the Government and all the documents pertaining to the appellant's activity were also in the public domain. In these circumstances, we hold that the extended period of limitation is not invokable. We note that in this case, for the period from 2014-15 up to June, 2017, the Show Cause Notice has been issued on 20th September, 2019. Consequently, the demand pertaining to the extended period of limitation is not sustainable and therefore, set aside.

7.1. We hold that any demand which is within the normal period of time, is liable to be paid by the appellant, along with interest."

8. Following the decision in the case of Kalsi Buildcon Private Ltd. (Supra) we hold that in this case also extended period of limitation is not invokable. As the Show Cause Notice to the appellant has been issued to the appellant on 12.10.2021 by invoking extended period of limitation for the period

2016 -17 to June, 2017 as whole of the period is beyond the normal period of limitation, therefore, no demand is sustainable against the appellant.

9. In view of this the appellant succeeds on limitation. Consequently, the demand confirmed against the appellant is set aside and no penalty is imposable on the appellant.

10. In view of this we allow the appeal with consequential relief, if any.

(Pronounced in the open court on 09.07.2025)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K.ANPAZHAKAN)
MEMBER (TECHNICAL)

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