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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75368 of 2024

(Arising out of Order-in-Appeal No. 150/ST/BBSR-GST/2023 dated 07.11.2023 passed by the Commissioner (Appeals), G.S.T., C.X. & Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Dipti Ranjan Mohanty **: Appellant**
C/o. Jogesh Chandra Mohanty,
At-Flat Padhuanpada, F.M. College Road,
Balasore, Odisha – 756 001

VERSUS

Commissioner of C.G.S.T. and Central Excise **: Respondent**
Bhubaneswar Commissionerate,
Central Revenue Building, Rajaswa Vihar,
Bhubaneswar, Odisha – 751 007

APPEARANCE:

Smt. Shreya Mundhra, Advocate, for the Appellant

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

CORAM:

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

FINAL ORDER NO. 76917 / 2025

DATE OF HEARING / DECISION: 14.07.2025

ORDER:

The present appeal has been filed against the Order-in-Appeal No. 150/ST/BBSR-GST/2023 dated 07.11.2023 passed by the Commissioner (Appeals), G.S.T., C.X. & Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha wherein the demand of Service Tax, along with interest and penalties, as confirmed vide the Order-in-Original No. DC/ST/BLS/59/2022 dated 25.05.2022 have been upheld.

2. The facts of the case are that M/s. Dipti Ranjan Mohanty, At-Flat Padhuanpada, F.M. College Road, Balasore, Odisha – 756 001 (hereinafter referred to as the "appellant") is a sole proprietorship concern engaged in providing transportation services by road. The appellant owns commercial vehicles and provides transportation services to various entities without issuing consignment notes.

2.1. During the Financial Year 2014-15, the appellant had provided transportation services exclusively to M/s. Emami Paper Mills Ltd. (a body corporate) through M/s. Coalsale Company Limited as an intermediary. The total amount received by the appellant for transportation services during FY 2014-15 was Rs. 1,92,96,633/-.The transportation arrangement was structured as follows:

- Original contract was between Coalsale Company Limited and Emami Paper Mills Ltd.

- Coalsale Company Limited engaged the Appellant as transporter for executing transportation works

- The appellant provided transportation services from Khantapara Railway Siding to Balasore Plant at Balgopalpur of M/s. Emami Paper Mills Ltd., which is a body corporate.

3. The appellant raised 29 commercial invoices to M/s. Coalsale Company Ltd. for transportation of goods, and the bills were honoured by M/s. Coalsale Company Ltd. The appellant exclusively provided transportation of goods by road services and did not

provide any other services during the period in dispute. M/s. Emami Paper Mills Ltd. appointed M/s. Coalsale Company Ltd. as goods transport agent for transport of goods by road from Khantapara Railway Siding to Balasore Plant, and the entire payment of Rs. 1,92,96,633/- was received from M/s. Coalsale Company Ltd.

4. The departmental authorities initiated proceedings based on the discrepancy observed in the data received from the Income Tax Department/Central Board of Direct Taxes (CBDT) and the appellant's non-filing of ST-3 returns. Based on the above, a Show Cause Notice dated 04.11.2019 was issued under C. No. V(15)153/SCN/ST/TP-85/UREG/2019/3785 proposing Service tax demand of Rs. 23,85,064/- (including cess) under proviso to Section 73(1) of the Finance Act, 1994 along with interest under Section 75 and penalties under Sections 77 and 78.

4.1. During adjudication, the Order-in-Original bearing No. DC/ST/BLS/59/2022 dated 25.05.2022 was issued confirming the demand of Service Tax of Rs. 23,85,064/- (inclusive of cess) along with interest and penalties thereon.

4.2. The above adjudication order was challenged by the appellant herein before the Ld. Commissioner (Appeals), Bhubaneswar, whereafter vide the impugned order dated 07.11.2023, the Order-in-Original dated 25.05.2022 came to be upheld.

5. Aggrieved by the said order, the appellant has filed the present appeal.

6. During the course of hearing, the Ld. Counsel appearing on behalf of the appellant submitted, at the outset, that the appellant being a sole proprietorship concern engaged in the activity of transportation of various materials to various destinations by road using its own truck without issuance of consignment notes, which is not in the capacity of a Goods Transport Agency (GTA), they are not liable to pay Service Tax as the said service of transportation is covered under Negative List.

6.1. In this regard, she has pointed out that the issue in relation to levy of Service tax on transportation service providers where consignment note is not issued is no longer res integra and has been settled in favour of the appellant, in the following cases: -

a. Bajrang Enterprise v. Commissioner [Final order No. 76671/2025 dated 03.07.2025 - CESTAT, Kolkata]
b. Kalyani Transco v. Commissioner [2025 (3) TMI 1103 - CESTAT KOLKATA]
c. Chartered Logistics Vs. C.C.E. Ahmedabad-II [2023 (7) TMI 883 -CESTAT Ahmedabad]
d. Tata Power Company Ltd. v. Commissioner [2024 (10) TMI 1062 – CESTAT, Kolkata]

6.2. Additionally, the Ld. Counsel for the appellant also submitted that in any case, no tax is liable to be paid by the appellant as the Service Tax on the services provided to M/s. Coalsale Company Ltd. for goods transport to M/s. Emami Paper Mills Ltd. has been duly discharged under reverse charge mechanism by the M/s. Emami.

6.3. In view of these submissions, the Ld. Counsel for the appellant has prayed for setting aside the demands confirmed against them, which have been upheld by way of the impugned order.

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

8. Heard both sides and perused the documents placed on record.

9. I find that in this case, the appellant, which is a sole proprietorship concern, has engaged in the activity of transportation of various materials to various destinations by road using its own truck. Further, it is also a fact borne on record that no consignment notes were issued by the appellant in relation to the above activity undertaken by them. Therefore, it is clear that the appellant falls outside the purview of "Goods Transport Agency". Accordingly, I agree with the argument advanced by the appellant that they are not liable to pay Service Tax on the said activity, being covered under the Negative List in terms of Section 66D of the Finance Act, 1994. The relevant provisions are reproduced hereinbelow for ease of reference:

> *"66D. The negative list shall comprise of the following services, namely:---*
>
> *….*
>
> *(p) services by way of transportation of goods-*
>
> *(i) by road except the services of-*
>
> *(A) a goods transportation agency; or*
>
> *(B) a courier agency;"*

9.1. From the above, I observe that service tax is liable to be paid for transportation service, only when such service is rendered by a 'Goods Transport Agency' which issues 'Consignment Note'. In this case, it is a fact on record that the appellant was not issuing 'Consignment Note'. Accordingly, I hold that the activity undertaken by them are covered within the ambit of Negative List in terms of Section 66D of the Finance Act, 1994 and hence, the appellant is not liable to pay Service Tax on the services rendered by them to M/s. Coalsale Company Ltd.

9.2. In this regard, I find it relevant to refer to the decision rendered by this Tribunal in the case of *M/s. Bajrang Enterprise v. Commissioner of C.G.S.T. and Central Excise, Kolkata South [Final Order No. 76671 of 2025 dated 03.07.2025 in Service Tax Appeal No. 75119 of 2025 – CESTAT, Kolkata]* wherein under similar facts and circumstances, it has been held as under: -

> *"6. In this case, it is a fact that the Appellant is a proprietorship concern with a single truck, providing transportation services without issuing consignment notes. Thus, I observe that the appellant cannot be classified as a Goods Transport Agency. Therefore, I find that the services provided by the Appellant fall squarely within the Negative List and hence the said activity is not taxable. The relevant provisions are reproduced here-in-below for ease of reference:*
>
> > *"66D. The negative list shall comprise of the following services, namely: ---*
> >
> > *(p) services by way of transportation of goods-*
> >
> > *(i) by road except the services of-*
> >
> > *(A) a goods transportation agency; or*
> >
> > *(B) a courier agency;" -*
>
> *6.1. I find that services provided for transportation of goods in individual capacity fall within the ambit of negative list as provided under Section 66D of the*

Finance Act. In this case, the Appellant, being a small sole proprietorship concern with a single truck, providing transportation services without issuing consignment notes, cannot be classified as a GTA. Therefore, I hold that the services provided fall squarely within the negative list and are not taxable.

6.2. I also find that the Appellant has submitted that even if the services are considered as GTA services, no tax is payable by them. I find merit in the submission of the Appellant. In this case, the appellant has provided transportation services to M/s. Balmer Lawrie Ltd., which is a Government company and hence, M/s. Balmer Lawrie Ltd. are liable to pay service tax under Reverse Charge Mechanism.

6.3. Moreover, in this case, the Appellant has claimed that the balance services are exempt as individual consignment values are below Rs. 1400/-. I find that this claim of the appellant has been admitted by the ld. appellate authority in the Order-in-Appeal, wherein he has recorded that the cash ledger submitted by the Appellant showed receipts of Rs. 750/- and Rs. 1400/-. As per Notification No. 25/2012-ST dated 20.06.2012, as amended, exemption is provided for:

> *"Services provided by a goods transport agency, by way of transport in a goods carriage of—*
>
> *(b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees"*

6.3.1. Since the individual consignment values, as admitted in the Order-in-Appeal itself, are Rs. 750/- and Rs. 1400/-, which are below the exemption limit of Rs. 1500/-, I hold that no service tax is payable on these services.

7. Accordingly, I hold that the demands of service tax confirmed in the impugned order is not sustainable and hence I set aside the same. Since the demand of service tax is not sustained, the question of demanding interest or imposing penalty does not arise.

8. In view of the above discussion, I set aside the impugned order and allow the appeal, with consequential relief, if any, as per law."

10. I also take note of the submission made by the appellant that the transportation in this case has been rendered to M/s. Coalsale Company Limited, who in turn were to provide such service to M/s. Emami Paper Mills Ltd. and that M/s. Emami Paper Mills Ltd. have discharged Service Tax on the said service under reverse charge mechanism. Thus, I observe that effectively the Service Tax on this activity has already been paid by the ultimate service receiver. Accordingly, I find merit in the submission of the appellant that no Service Tax liability is cast on them in the instant case.

11. In view of the above discussion and by relying on the decision cited supra, I hold that demand of Service Tax confirmed against the appellant is not sustainable. Consequently, the demand of interest and imposition of penalties also do not survive.

12. In the result, I set aside the impugned order and allow the appeal, with consequential relief, if any, as per law.

(Operative part of the order was pronounced in open court)

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

Sdd