IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 75932 of 2025

(Arising out of Order-in-Appeal No.263/SLG-ST/2024-25 dated 07.11.2024 passed by Commissioner(Appeals), CGST & CX, Siliguri)

M/s Kuddus Ali **: Appellant**
Village-Mahishbathani, Balua Tola, Barkol, Old Malda, Malda,
West Bengal-732128.

VERSUS

Commissioner of CGST & CX, Siliguri Commissionerate **: Respondent**
GST Bhawan, H.M. Road, Hakimpara, Siliguri

APPEARANCE:

Shri Ankit Kanodia & Ms. Megha Agarwal, Advocates for the Appellant

Shri Sameer Chitkara & S.K.Dikshit, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 77019/ 2025

DATE OF HEARING :09.07.2025

DATE OF DECISION:09.07.2025

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order wherein demand of Service Tax has been confirmed against them for the period 2015-16 to 2016-17. by issuance of the Show Cause Notice dated 18.12.2020 by invoking extended period of limitation.

2. The facts of the case are that on the basis of information provided by Income Tax Department through Inter departmental Information Sharing System, it is alleged that the appellant has received and collected taxable income for providing services amounting Rs. 36,50,01,519/- during the period 2015-16 and 2016-17 as per the information

furnished under Income Tax Act, 1961. On verification from the departmental website, it was found that the appellant has declared taxable value in their ST3 return for the said period amounting to Rs. 26,58,96,180/-. Therefore, they have suppressed the taxable value to the tune of Rs.9,91,05,339/-. On that basis, the Show Cause Notice was issued to the appellant by invoking extended period of limitation demanding Service Tax.

3. The matter was adjudicated. Demand of Service Tax was confirmed alongwith interest and penalties were imposed.

4. Aggrieved from the said order, the appellant is before us.

5. The Ld. Counsel appearing on behalf of the appellant submits that the Show Cause Notice has been issued on the basis of information received from the Income Tax Department but no investigation was conducted at the end of the appellant and demand has been raised by invoking extended period of limitation. It is his contention that in 2017 and 2018, the regular audit was conducted but no issue was raised for impugned demands. In that circumstances, the Show Cause Notice issued to the appellant is barred by limitation.

6. On the other hand Ld. Authorized Representative supported the impugned order.

7. Heard the parties. Considered the submissions.

8. We find that the demand has been raised against the appellant on the basis of information gathered from the Income Tax Department and regular audit was conducted in the premises of the appellant which is evident from the following:

All

URGENT

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE: DEPARTMENT OF REVENUE
OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX
SILIGURI AUDIT CIRCLE V, DURGAPUR AUDIT COMMISSIONERATE
5TH FLOOR, C.R. BUILDING, HAREN MUKHERJEE ROAD, HAKIMPARA, SILIGURI-734001

PHONE NO-(0353)- 2432500	FAX-(0353)- 2432500	e-mail- slgauditcircle5@gmail.com

C.NO. V(1)67/ST/SLG/CIRCLE-V/GR 29/DGP Audit/2017-18/ 181 Date: 25.08.17

To
M/S KUDDUS ALI
MAHISHBATHANI, MAHISHBATHANI
BALUATOLA, MAHISHBATHANI
BARKOL, MALDA
WEST BENGAL-732128

Dear Sir,

Subject: Intimation for conducting Centrral Excise Audit under EA-2000-regarding.

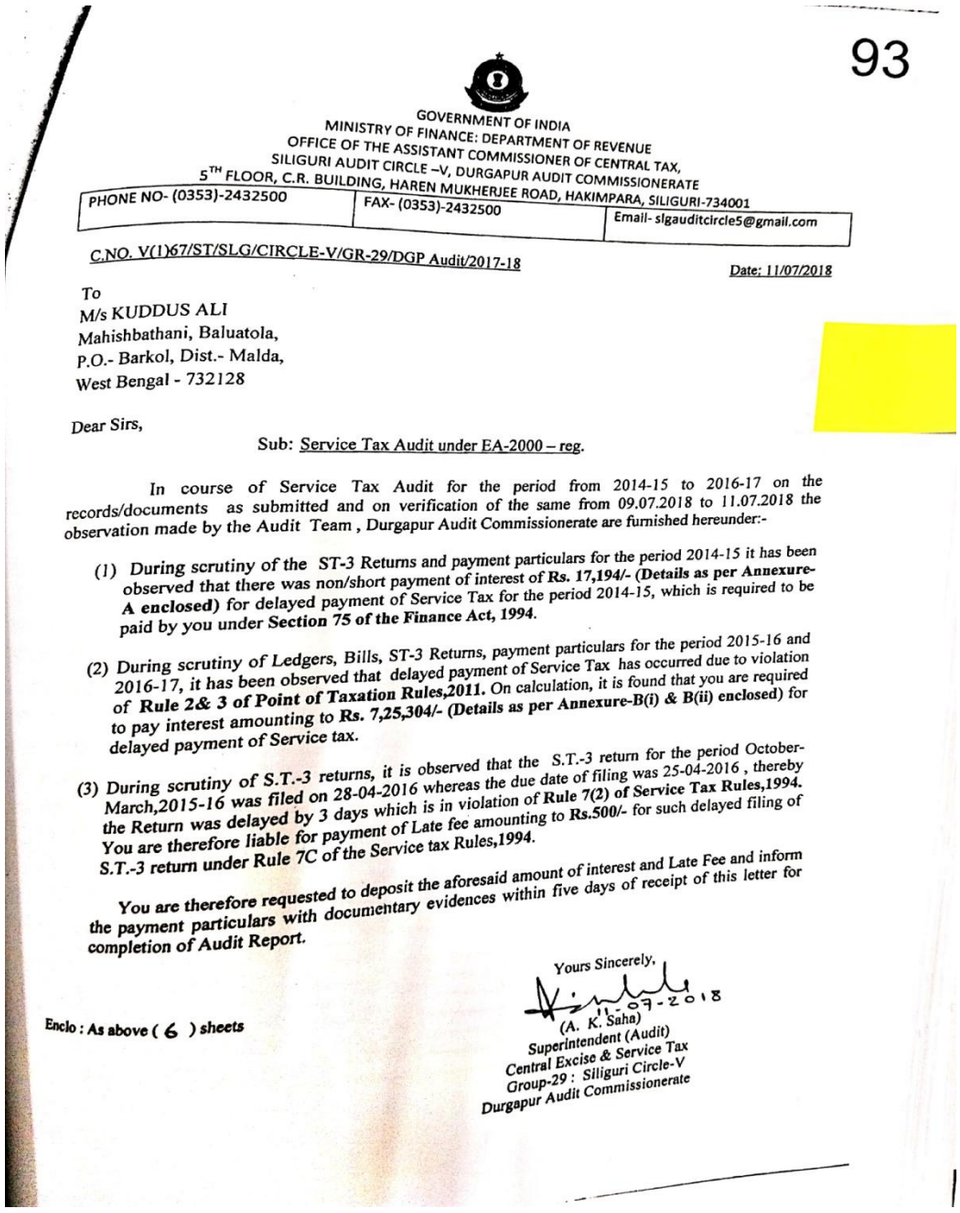
The Internal Audit Group headed by Shri Asish Kr. Saha, Superintendent of Central Tax (Audit) (Contact Phone No. **0353 – 2432500** and email id: *slgauditcircle5@gmail.com*), Audit Group No. 29 will take up the audit of the accounts/records of your unit for the year(s) 2012-13 (or from last period of Audit) to 2016-17. It is requested that the following documents may be furnished immediately to this office.

1. Copies of Balance Sheet, Trial Balance and Annual Financial Statement for the years 2012-13 to 2016-17.
2. Annual returns submitted to the Registrar of Companies, Sales Tax, Income Tax Returns along with Annexures for the financial years 2012-13 to 2016-17.
3. ER-1 / ST-3 Returns & e-payment Challans & ER-3/4/5/6 and other Returns if any submitted to Banks/Financial Institutions for the period 2012-13 to 2016-17.
4. Memorandum of Association, Tax Audit and Internal Audit Reports, wherever applicable for the period 2012-13 to 2016-17.
5. Bank statement along with Bank ledger for the period 2012-13 to 2016-17.
6. A list of documents maintained by you at your end
7. Input credit/ Cenvat credit detail, if any (availment and utilization month wise)
8. Registration Certificate
9. Copy of the last time audited report & Show cause notice if any

2. It is also requested to designate a person (employee of the company/ registered concern) for coordinating with the Audit team and communicate the name, designation and contact numbers and e-mail id of the person so designated.
3. It is further requested that full co-operation may be extended to the Audit party in carrying out the audit and keep all the relevant records ready so that the audit can be conducted smoothly.
4. In case of any difficulty, you can get in touch with the undersigned through the telephone number/fax/email mentioned above.

The receipt of this letter may please be acknowledged.

Yours faithfully,
25-08-2017
SUPERINTENDENT (AUDIT)
GROUP-29
SILIGURI CIRCLE-V



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GOVERNMENT OF INDIA
MINISTRY OF FINANCE: DEPARTMENT OF REVENUE
OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX,
SILIGURI AUDIT CIRCLE –V, DURGAPUR AUDIT COMMISSIONERATE
5TH FLOOR, C.R. BUILDING, HAREN MUKHERJEE ROAD, HAKIMPARA, SILIGURI-734001

PHONE NO- (0353)-2432500 | FAX- (0353)-2432500 | Email- slgauditcircle5@gmail.com

C.NO. V(1)67/ST/SLG/CIRCLE-V/GR-29/DGP Audit/2017-18 Date: 11/07/2018

To
M/s KUDDUS ALI
Mahishbathani, Baluatola,
P.O.- Barkol, Dist.- Malda,
West Bengal - 732128

Dear Sirs,

Sub: Service Tax Audit under EA-2000 – reg.

In course of Service Tax Audit for the period from 2014-15 to 2016-17 on the records/documents as submitted and on verification of the same from 09.07.2018 to 11.07.2018 the observation made by the Audit Team , Durgapur Audit Commissionerate are furnished hereunder:-

(1) During scrutiny of the ST-3 Returns and payment particulars for the period 2014-15 it has been observed that there was non/short payment of interest of **Rs. 17,194/- (Details as per Annexure-A enclosed)** for delayed payment of Service Tax for the period 2014-15, which is required to be paid by you under **Section 75 of the Finance Act, 1994**.

(2) During scrutiny of Ledgers, Bills, ST-3 Returns, payment particulars for the period 2015-16 and 2016-17, it has been observed that delayed payment of Service Tax has occurred due to violation of **Rule 2& 3 of Point of Taxation Rules,2011.** On calculation, it is found that you are required to pay interest amounting to **Rs. 7,25,304/- (Details as per Annexure-B(i) & B(ii) enclosed)** for delayed payment of Service tax.

(3) During scrutiny of S.T.-3 returns, it is observed that the S.T.-3 return for the period October-March,2015-16 was filed on 28-04-2016 whereas the due date of filing was 25-04-2016 , thereby the Return was delayed by 3 days which is in violation of **Rule 7(2) of Service Tax Rules,1994.** You are therefore liable for payment of Late fee amounting to **Rs.500/-** for such delayed filing of S.T.-3 return under Rule 7C of the Service tax Rules,1994.

You are therefore requested to deposit the aforesaid amount of interest and Late Fee and inform the payment particulars with documentary evidences within five days of receipt of this letter for completion of Audit Report.

Yours Sincerely,
11-07-2018
(A. K. Saha)
Superintendent (Audit)
Central Excise & Service Tax
Group-29 : Siliguri Circle-V
Durgapur Audit Commissionerate

Enclo : As above (6) sheets

9. As regular audit has been conducted against the appellant on 25.08.2017 and 11.07.2018 which is evident that the activity of the appellant was known to the Department. In that circumstances the Show Cause Notice issued to the appellant on 18.12.2020 for the period 2015-16 and 2016-17 is highly barred by limitation. In that view, we set aside the impugned order on limitation and the appellants succeeds on limitation.

10. Accordingly impugned order is set aside and appeal is allowed with consequential relief, if any.

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

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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