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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 76457 of 2017

(Arising out of Denovo Order No. DGR-EXCUS-000-COM-026-16-17 dated 14.02.2017 passed by the Commissioner of Central Excise, Service Tax and Customs, Durgapur, Satyajit Ray Sarani, City Centre, Durgapur – 713 216, Dist.: Burdwan, West Bengal)

M/s. Nirman Construction **: Appellant**
SBSTC Bus Terminus Complex Building,
City Centre, Durgapur – 713 216,
District: Burdwan (West Bengal)

VERSUS

Commissioner of Central Excise, Service Tax and Customs **: Respondent**
Durgapur Commissionerate,
Satyajit Ray Sarani, City Centre, Durgapur – 713 216,
Dist.: Burdwan (West Bengal)

APPEARANCE:

Shri Aditya Dutta, Advocate, for the Appellant

Shri 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. 77064 / 2025

DATE OF HEARING: 23.07.2025

DATE OF DECISION: 29.07.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the of Denovo Order No. DGR-EXCUS-000-COM-026-16-17 dated 14.02.2017 passed by the Commissioner of Central Excise, Service Tax and Customs, Durgapur Commissionerate, wherein the demand of Service Tax of Rs.13,35,07,269/- (inclusive of cesses), along with interest and penalties thereon, has been confirmed against the appellant for the period from 2005-06 to 2008-09, by invoking the extended period of limitation.

2. The facts of the case are that M/s. Nirman Construction, Durgapur (hereinafter referred to as the "appellant") are registered for providing taxable services under the categories of 'commercial or industrial construction service', 'management, maintenance or repair service' and 'works contract service'.

2.1. Upon scrutiny of the Profit & Loss Account and other documents pertaining submitted by the assessee-appellant, it was alleged by the Departmental officers that the appellant had not paid appropriate Service Tax for the services rendered by them for the Financial Years 2005-06, 2006-07, 2007-08 and 2008-09. Accordingly, a Show Cause Notice bearing C. No. V(15)109/Adj/CE/Bol/10/2292 dated 09.08.2010 was issued, demanding Service Tax of Rs.14,12,07,294/- from the appellant for the period from 2005-06 to 2008-09, along with interest, by invoking the extended period of limitation. The said Notice also proposed imposition of penalties on the appellant under Sections 76 and 78 of the Finance Act, 1994.

2.2. The said Show Cause Notice was adjudicated vide the Order-in-Original No. 51/Commr/ST/Bol/11 dated 06.07.2011 wherein the ld. adjudicating authority has upheld the demand of Service Tax of Rs.14,12,07,294/-, along with interest and penalties thereon.

3. On appeal, the CESTAT disposed of the appeal vide Final Order No. FO/A/75316/2015 dated 24.06.2015 wherein the matter was remanded to the ld. adjudicating authority, with the following observations:

> *"6. We find that the demand has been raised and confirmed on the basis of the difference in value between the ST-3 Returns and balance sheet of the respective years. It is the contention of the appellant that even though they have furnished various work orders to show that the allegations in the show cause notice are incorrect and the demand raised accordingly not sustainable, however, the said submissions were not analysed nor the work orders scrutinized by the adjudicating authority. We find that the Ld. Commissioner though accepted that the show cause notice has not reflected detailed facts but he proceeded to decide the issue without analyzing the facts submitted by the Appellant in their reply to show cause Notice with supporting documents/evidences. In these circumstances, we are of the view that the Ld. Commissioner has proceeded in a wrong direction without ascertaining the facts. Hence, the case needs to be re-adjudicated. In the result, we remit the matter to the Ld. Commissioner to decide the issue afresh taking into consideration all the relevant work orders and documents/evidences submitted by the applicant and also that would be filed during the adjudication. Needless to mention that reasonable opportunity of hearing be allowed to the appellants. All issues are kept open. Appeal is allowed by way of remand. S.P. disposed off."*

4. As directed by the Tribunal, the ld. adjudicating authority has taken up the Notice for de novo adjudication. During the de novo adjudication proceedings, the ld. adjudicating authority has passed the impugned order dated 14.02.2017, confirming the demand of Service Tax of Rs.13,35,07,269/-, along with interest. He also imposed a penalty equal to the amount of Service Tax demanded under Section 78 of the Finance Act, 1994, besides imposing penalty under Section 76 of the said Act.

5. Aggrieved by the confirmation of these demands, the appellant has filed this appeal.

6. The Ld. Counsel appearing on behalf of the appellant submits that during the de novo proceedings, they have submitted all the documents required for availing the abatement benefits as provided under the Notification 01/2006-ST dated 01.03.2006. However, he also submits that the ld. adjudicating authority ignored all the evidences submitted by them and confirmed the demands of Service Tax by denying the abatement benefits. Since more than twenty years have passed and they are not in a position to furnish any other documentary evidence in support of their claim for availing the abatement benefits, it is the submission of the Ld. Counsel for the appellant that they are taking up the other grounds, on which the demands confirmed in the impugned order are not sustainable.

6.1. The appellant submits that the demands confirmed by invoking extended period of limitation is not sustainable in this case as suppression of facts with intention to evade the tax has not been established in this case. It is their submission in this regard they are registered with the Service Tax Commissionerate and are paying Service Tax regularly; they were also regularly filing Returns during the period from 2005-06 to 2008-09. It is submitted that the appellant had executed several work orders and paid Service Tax thereon after availing abatement in terms of Notification No. 15/2004-S.T. dated 10.09.2004, as amended by Notification No. 01/2006-S.T. dated 01.03.2006.In this regard, the appellant further points out that they have claimed the benefit of abatements and exemptions as provided in the said Notifications in the S.T.-3 Returns filed and no objection has been raised by the Department at that time regarding their eligibility to the said Notifications.

6.2. It is submitted by the appellant that the Department has issued the Show Cause Notice dated 09.08.2010 demanding Service Tax for the period from 2005-06 to 2008-09 mainly on the basis of the difference between the figures furnished in the balance sheet / Profit & Loss Account and the S.T.-3 Returns filed; all these details were available with the Department and they have not brought in any new evidence to allege short payment of service tax. Accordingly, the appellant contends that the allegation of suppression of facts is not sustainable in this case and therefore the demands of service tax confirmed by invoking the extended period of limitation are liable to be set aside.

6.2.1. In support of this contention, the appellant relies on the following decisions: -

i. *M/s. Munna Construction v. Commissioner of C.Ex. & S.T., Jamshedpur [Final Order No. 77625 of 2024 dated 22.11.2024 in Service Tax Appeal No. 76359 of 2014 (CESTAT, Kolkata)]*
ii. *M/s. Arya Logistics v Commissioner of C.Ex. & S.T., Rajkot [Final Order No. 11700 of 2023 dated 17.08.2023 in Service Tax Appeal No. 12389 of 2014 (CESTAT, Ahmedabad)]*
iii. *M/s. Balajee Machinery v Commissioner of C.G.S.T. & Excise, Patna-II [2022 (66) GSTL 440 (Tri.-Kol)]*

6.3. The appellant further submits that the Show Cause Notice has proposed to demand Service Tax without specifically categorizing the particular category of service in which Service Tax was liable to be paid by the appellant herein. The appellant refers to paragraph 2.2 of the instant Show Cause Notice wherein it has been admitted that the appellant have rendered commercial or industrial construction service, management maintenance or repair service and works contract service, but submits that the "Annexure-A" attached to the said Show Cause Notice has failed to specifically quantify the Service Tax payable under each category separately. The appellant submits that the demand of service tax has been confirmed for the period from 2005-06 to 2008-09, which was a positive regime of Service Tax, wherein the demand of Service Tax has to be raised specifically under each category of service. Thus, the appellant has contended that the demand of Service Tax raised in the impugned Show Cause Notice without quantification of category wise Service Tax liability, is not sustainable in law.

6.3.1. In support of this contention, the appellant has cited the decision rendered by this Tribunal in the case of *Commissioner of Service Tax, Kolkata v. M/s. Haldia Logistics Pvt. Ltd. [Final Order No. 76417-76418 of 2025 dated 05.05.2025 in Service Tax Appeal No. 269 of 2011 &anr. – CESTAT, Kolkata]* wherein it has been held that without proper quantification of Service Tax under various headings, confirmation of Service Tax demands is not sustainable. Reliance has also been placed by the appellant on the decision of the CESTAT, New Delhi in the case of *M/s. R.K. Singh & Co. v. Commissioner of Customs & Central Excise [(2024) 25 Centax 278 (Tri. – Del.)]* which has set aside the Show Cause Notice issued merely on the basis of difference observed between the figures furnished in the balance-sheet and S.T.-3 Returns; the Ld. Counsel for the appellant points out that in the said order, the Tribunal has categorically held that a Show Cause Notice must identify the specific taxable service category for demanding Service Tax. In support of their contention, the appellant has also relied upon the decision in the case of *M/s. Bansal Electric Works v. Commissioner of Cus., C.Ex. & S.T., Noida [2017 (3) G.S.T.L. 65 (Tri. – All.)]* wherein it has been held that a Show Cause Notice without giving bifurcation of Service Tax category-wise is unsustainable.

6.4. In view of the above submissions, the Ld. Counsel for the appellant has prayed for setting aside the demands of service tax along with interest and penalties confirmed vide the impugned order.

7. On the other hand, the Ld. Authorized Representative of the Revenue submitted that although the appellant have claimed the benefit of abatement as provided under the Notification No. 15/2004-S.T. dated 10.09.2004, as amended by Notification No. 01/2006-S.T. dated 01.03.2006, they have not furnished any documentary evidence regarding utilization of materials in the services executed by them. Accordingly, it is his contention that the benefits of abatement as claimed by the appellant, cannot be extended to them and has been rightly denied by the adjudicating authority in the impugned order.

7.1. Regarding the invocation of the extended period in this case, it is the contention of the Revenue that the appellant has not furnished all the relevant details in the S.T.-3 Returns filed; thus, the extended period of limitation has been rightly invoked against them for confirmation of the impugned demands in this case.

8. Heard both sides and perused the records.

9. We find that in this case, the appellant has mainly contested the demand on the ground of limitation. In this regard, we observe that they have filed their Returns regularly and furnished all the information before the Departmental authorities. Thus, we observe that the demand raised in the Show Cause Notice dated 09.08.2010 by invoking the extended period of limitation for the period from 2005-06 to 2008-09, on the basis of difference observed between figures in the balance sheet / Profit & Loss Account and S.T. Returns filed, is legally not sustainable.

9.1. We observe that the Show Cause Notice in this case has been issued on the basis of the data available in the statutory records of the appellant, which were always open to the Department for any query / scrutiny. The Department has also failed to bring any corroborative evidence on record to establish suppression of facts with the intent to evade payment of Service Tax, on the part of the appellant herein. Under such facts and circumstances, we agree with the submission of the appellant that the extended period of limitation cannot be invoked for confirming the demand of Service Tax against them.

9.2. We find that a similar view has been expressed by this Tribunal in the case of *M/s. Munna Construction v. Commissioner of C.Ex. & S.T., Jamshedpur [Final Order No. 77625 of 2024 dated 22.11.2024 in Service Tax Appeal No. 76359 of 2014 (CESTAT, Kolkata)].* For ease of reference, the relevant observations of the Tribunal in the said case are reproduced below: -

"12. Regarding confirmation of the demand of service tax by invoking the extended period of limitation, we observe that the Show Cause Notice has been issued on the basis of the data submitted by the Appellant, i.e., from their balance sheet, Profit & Loss Account and Form 26AS.The Appellant submitted that they had obtained registration with the service tax department in the year 2006 and have been filing their Returns. Accordingly, it is their submission that they have not suppressed any information from the Department and thus the extended period of limitation is not invokable.

12.1. In this regard, we observe that the Appellant had been filing their Returns and paying Service Tax regularly. They have registered with Service Tax Department since 2006, but till the date of audit conducted in 2011, the Department had not raised any objection regarding any short payment of Service Tax by the Appellant. We observe that the if the demand has been confirmed on the basis of the data submitted by the appellant, i.e., from their balance sheet, Profit & Loss Account and Form 26AS, then extended period of limitation is not invokable. We observe that this view has been held in various judicial pronouncements.

12.2. In the case of Arya Logistics v CCE & ST Rajkot [Service Tax Appeal No. 12389 of 2014], it has been held as under:

> *"4. We have carefully considered the submissions made from both the sides and perused the records. On going through the entire facts of the case we are of the view that the case can be disposed of on the ground of limitation itself.*
>
> *4.1 We find that the issue involved in this case is regarding the demand of service tax for the period April 2008 to March 2011 on the ground that the appellant has availed in-eligible benefit of notification No. 1/2006-ST dated 1-3-2006 by discharging the service tax liability by availing Cenvat Credit and paid service tax after availing abatement of 70% of the gross amount. We find from the records and copy of ST-3 produced before us that appellant had been filing the ST-3 returns regularly to the Jurisdictional Range officers. It is on record that the appellant shown all the details in ST-3 returns. We find that Appellant*

has shown the category of Transport of Goods by Rail services in all the ST-3 returns and has also shown the fact that they were availing Cenvat Credit. In the said ST-3 return, admittedly against the "Column A1 -Name of Taxable Service" Appellant have shown name of service as Goods Transport Agency and Transport of Goods in Container by Rail Service. Further in column 5B appellant have shown the details of Cenvat Credit Taken and utilized.

4.2 It becomes clear from the ST-3 return that the fact that appellant were discharging Service tax on Transport of Goods in container by Rail service and availing Cenvat credit and utilized the Cenvat credit was in the knowledge of the Revenue. However show cause notice to the Appellant was issued on 26-2-2013. Inasmuch as the entire information was in the knowledge of the Revenue, the longer period of limitation is not available. In view of these facts the show cause notice should have been issued within the normal period of one year as prescribed under section 73(1), whereas the show cause notice for the period April 2008 to March 2009 was issued on 26-2-2013 i.e. after prescribed limit of one year. As per the above fact, there is no suppression of fact on the part of the appellant. We also find that it is admitted fact that the appellant have taken service tax registration and are filing the periodical returns regularly. The appellant have maintained proper books of accounts in the normal course of business. It is pertinent to note that the entire case of the department on merit is that since appellant have availed Cenvat Credit, they violated the condition of abatement notification No. 01/2006-ST. As discussed above the facts that availment of Cenvat Credit and payment of Service Tax on the abated value were declared in the ST-3 return. Hence, having all the facts were disclosed to the department, nothing prevented department from issue of show cause notice within normal period of one year. Therefore, the demand raised in the show cause notice is clearly time-barred.

> *4.3 Since the demand is not sustainable on limitation alone, we refrain from giving finding on merit of the case and the same is left open."*

12.3. In the case of Balajee Machinery v Commissioner of CGST & Excise, Patna-II [2022 (66) G.S.T.L. 440 (Tri-Kolkata)],wherein it has been held as under:

> *"10. In so far as the issue of limitation is concerned, we do not find any ingredient of fraud or suppression with an intent to evade payment of tax. In the case of Pappu Crane Services v. CCE, Lucknow (Final Order No. 71246 of 2019 in ST Appeal No. 70707 of 2018), the Co-ordinate Bench of Tribunal at Allahabad has held that where the demand is merely based on the data appearing in the Income Tax Portal, there cannot be said to any fraud or suppression so as to justify invocation of extended period of limitation. Therefore in the present case, in our view, the demand raised for the period up to March, 2015 is completely barred by limitation and accordingly the demand is set aside. Further, since there is no element of fraud or suppression, we are of the view that the entire penalty amount is liable to be set aside."*

12.4. It is also observed that in the case of Quest Engineers & Consultant Pvt. Ltd. v Commissioner, CGST & C Ex, All [2022(58) G.S.T.L. 345 (T-All)], it has been held that: -

> *"12. Appreciating the facts and circumstances, we find that the allegations of Revenue are frivolous, that it was only on enquiry it came to know about the affairs of the appellant, i.e. providing of taxable service in view of the admitted facts that appellant is a registered assessee under the Service Tax provision, and have been filing their returns and paying tax. It is not alleged by the Revenue that the appellant was not maintaining proper financial records, register and vouchers for their transaction. We further find that Form No. 26AS is not a statutory document for determining the taxable turnover under the Service Tax provisions. We find that Form No. 26AS is maintained on*

cash/ receipt basis by the Income Tax Department for the purpose of tax deducted at source, etc. being the relevant data for Income Tax. Whereas under the Service Tax provisions, the service tax is chargeable on mercantile basis (accrual basis) on the service provided whether the value of such service is received or not. Thus, we find that the whole basis of show cause notice is incorrect and/or misconceived.

13.We further hold that the extended period of limitation is not available to Revenue under the facts and circumstances. We further hold that the appellant is entitled to exemption under the Notification No. 25/2012-S.T. under Sl. No. 13(a) of the said notification for providing consulting engineer services in the matter of road construction. When road construction is exempt, every activity is exempt relating to the road construction including consulting engineer services. The appellant also relied on the ruling in Lord Krishna Real Infra Pvt. Limited v. Commissioner of Customs, CE & ST, Noida, Final Order No. 70126/2019, dated 27-12-2018. This Tribunal has held in other disputed cases, that even the barricade provided on the side of highway, maintaining greenery on the side or middle of highway, construction of any facility, refreshment centre for road users, is also part of the road construction and such activity is also exempt. Even the administrative building constructed by the concessionaire, for construction of the road or highway for administration and collection of toll etc. is part of road.

14.---

15. Accordingly, in view of our findings, we allow the appeal and set aside the impugned order. We also hold that extended period of limitation is not available to Revenue. We also hold that appellant is also entitled to consequential benefits, in accordance with law."

12.5. Accordingly, by relying on the decisions cited above, we hold that the demand cannot be raised in this case by invoking the extended period of *limitation. Thus, we hold that the demand confirmed in the impugned order by invoking the extended period of limitation is not sustainable."*

9.3. In view of the discussions above and by relying upon the decisions cited supra, we hold that the invocation of extended period of limitation is not sustainable in the facts and circumstances of the case. Accordingly, we hold that the demand of service tax confirmed in the impugned order is liable to be set aside, being barred by limitation.

10. Additionally, the appellant has also taken the ground that the impugned Show Cause Notice has failed to specify the separate demands service category wise and thus, they contend that the instant Show Cause Notice has been issued merely on the basis of difference between the balance sheet / Profit & Loss account figures and the S.T.-3 figures, without specifying a particular category of service for such demand of Service Tax. In this regard, we have perused the "Annexure-A" to the Show Cause Notice wherein the Service Tax demand has been calculated. For the sake of ready reference, the said Annexure has been extracted below: -

ANNEXURE-A

Detailed calculation of Service Tax not paid/ short paid by M/S Nirman Construction, SBSTC Bus Terminus Complex, City Centre, Durgapur-713216

Period	Value of taxable service received as service provider	Rate of tax	Tax payable			Tax paid			Service tax not paid			Total
			Service Tax	Ed Cess	SHEC	Service Tax	Ed Cess	SHEC	Service Tax	Ed Cess	SHEC	
2005-06	237506948	10.20	23750695	475014	0	1801	394	0	23748894	474620	0	24223514
2006-07	326775503	12.24	39213060	784261	0	2433121	48661	0	36779939	735600	0	37515540
2007-08	396146860	12.36	47537623	950752	475376	469000	9379	4689	47068623	941373	470687	48480684
2008-09	258284068	12.36	30994088	619882	309941	914784	18297	3273	30079304	601585	306668	30987557
Total	1218713379		141495467	2829909	785317	3818706	76731	7962	137676761	2753178	777355	141207294

Tax not paid- Service Tax-Rs.137676761/- + Ed. Cess Rs.2753178/- + SHEC Rs.777355/- totaling Rs.141207294/-

10.1. From the above, it is evident that Service Tax has been demanded on the basis of the value of taxable services as observed from the balance sheet / Profit & Loss Account of the appellant and the value declared in their S.T.-3 Returns. No separate category-wise Service Tax has been demanded. Therefore, we find force in the contention of the Ld. Counsel for the appellant that the Show Cause Notice, issued merely on the basis of difference observed between the figures furnished in the balance-sheet and S.T.-3 Returns without specifying any particular category of service for levy of Service Tax, is not sustainable.

10.2. We find that the said issue has been examined by this Tribunal in the case of *Commissioner of Service Tax, Kolkata v. M/s. Haldia Logistics Pvt. Ltd. [Final Order No. 76417-76418 of 2025 dated 05.05.2025 in Service Tax Appeal No. 269 of 2011 &anr. – CESTAT, Kolkata],* wherein it has been observed as under: -

> *"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 service 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."*

10.2.1. An identical issue also came up before the Tribunal at New Delhi in the case of *M/s. R.K. Singh & Co. v. Commissioner of Customs & Central Excise [(2024) 25 Centax 278 (Tri. – Del.)].* The relevant observations of the Tribunal in the aforesaid case is reproduced below: -

> *"6. To examine the contention advanced by the appellant, it is necessary to examine the show cause notice dated April 02, 2013. Paragraph 8.4 of the show cause notice, which has been reproduced above, mentions that the ST-3 returns and the balance sheet of the appellant had been perused and since the balance sheet shows Rs. 15,03,87,703/- and ST-3 returns show a taxable value as Rs. 10,34,19,681/-, the appellant would have to pay service tax of Rs. 54,49,215/- on the taxable value of Rs. 4,69,68,022/-. It is, therefore, clear that the show cause notice which was issued for the period April 01, 2007 to March 31, 2012 does not give any reason as to why the amount would be taxable and, if so, then under which category. What transpires from the show cause notice is that the difference between the amount shown in the balance sheet and the ST-3 returns has been construed to be a taxable amount.*
>
> *7. This issue regarding vagueness of the show cause notice in similar circumstances was examined by a Division Bench of the Tribunal in Hindustan Zinc Ltd. v. Commissioner, Central Excise, Udaipur 2021 (9) TMI 859-CESTAT New Delhi and the relevant paragraphs of the decision are reproduced below:*
>
> > *"10. To appreciate the aforesaid contention, it would be necessary to examine the relevant provisions of section 66 and 66A of the Finance Act. Section 66 is the charging section and it provides that there shall be*

> *levied service tax at the rate of 12 per cent of the value of taxable services referred to in various clauses of section 65(105), Section 66A of the Finance Act relates to charge of service tax on services received from outside India.*
>
> *11. Neither is there any allegation in the two show cause notices nor any finding has been recorded in the impugned order to demonstrate how the provisions of 66 read with 66A of the Finance Act and the Import Rules are attracted. In fact, neither the show cause notices nor the impugned order specify the category of service under which the demand has been confirmed against the Appellant. The demand has been proposed and confirmed merely because of difference berween the figures in the balance sheet of the Appellant and the ST-3 Returns."*
>
> *[emphasis supplied]*

8. After placing reliance upon the decisions of the Tribunal in Shubham Electricals v. Commissioner of Central 2021 (9) TMI 859 CESTAT New Delhi Excise & Service Tax, Rohtak 2015 (40) STR. 1034 (Tri-Del); Deltax Enterprises v. Commissioner of Central Excise, Delhi-1 2018-TIOL-636-CESTAT-DEL; and N R Management Consultants India Pvt. Ltd. v. Commissioner of Service Tax, New Delhi 2018-TIOL-813-CESTAT-DEL, the Tribunal in the aforesaid decision observed:

> *12. It is well settled that the show cause notice as also the order of the adjudicating authority should specify the taxable service. In this connection reference can be made to the following decisions.*
>
> *13. In Shubham Chemicals, the Tribunal observed as follows:*
>
> *"11. Neither the show cause notice dated 21-102011 nor the impugned adjudication order dated 18-1-2013 record any assertion/conclusion whatsoever as to which particular or specific taxable service the appellant had provided. In the absence of an allegation of having provided a specific taxable service in the show cause notice and in view of the failure in the adjudication order*

as well, neither the show cause notice nor the consequent adjudication order could be sustained."

(emphasis supplied)

14. In Deltax Enterprises, the Tribunal observed as follows:-

"4. In the absence of specific allegation with reference to the nature of service or the service recipient it is not tenable to hold an income of the appellant even if it is admitted to be an actual income, as consideration for a taxable service."

15. In NR Management Consultants, the Tribunal observed as follows:-

"It is clear that there is no categorical finding as to how the expenditure incurred in foreign exchange can be considered as a payment towards specific category of taxable service and thereafter can be subjected to tax at the hands of the appellant on reverse charge basis. We find considerable force in appellant-assesse's plea with reference to presumptive nature of the demand for service tax attributable to expenditure in foreign currency. In fact, the nature of services received by the appellant-assesses with supporting evidence has not been analyzed at all. In such situation, the finding recorded by the impugned order suffers from serious legal infirmity."

16. The confirmation of demand on the basis of such a vague show cause notice cannot, therefore, be sustained."

[emphasis supplied]

9. As noted above, in the present appeal also, the demand has been proposed in the show cause notice only because of the difference between the figures shown in the balance sheet of the appellant and the ST-3 returns. The show cause notice, therefore, Is vague. The order passed by the Commissioner confirming the demand on this show cause notice, therefore, deserves to be set aside."

10.2.2. Further, we also find it relevant to refer to the decision rendered by the Tribunal at Allahabad in the case of *M/s. Bansal Electric Works v. Commissioner of Cus., C.Ex. & S.T., Noida [2017 (3) G.S.T.L. 65 (Tri. – All.)],* wherein it has been held as under: -

> *"9. Having considered the rival contentions, I find that the show cause notice is vague as it does not state the premises on the basis of which demand have been proposed under 'erection, commissioning and installation service'. Without there being a finding of erection of any such commercial flats/residential complex. The show cause notice is also vague on account of not giving bifurcation of the demand year wise and category wise. I also hold that so far demand of Rs. 15,48,599/- is concerned the same relates to laying of cables or electrical wires including poles for the same alongside or under the road and such work was not taxable to Service Tax in view of Circular dated 24-5-2010 (supra). Similarly, the demand of Rs. 5,88,991/- with respect to work done in the nature of internal and external wiring in the residential houses/duplexes, there is no element of any construction of a commercial/residential complex as defined under the provisions of the Service Tax Act. Accordingly, demand of Rs. 5,88,991/-, is also set aside. So far the disputed amount of Rs. 3,54,411/-, was for work done for Indian Railway Welfare Organization, in view of the fact that the work had been completed before 30-10-2004, there is no question of levy of any tax for the same under ECIS, which have become taxable with effect from 1-6-2005. I also hold that there is no element of suppression, fraud or any mala fide on the part of the appellant and they have not concealed information or made any misstatement of facts before the Revenue. At the very first instance, the proprietor of the appellant has deposited the admitted tax liability and the issue being wholly interpretational. I hold that extended period of limitation is not attracted in the facts and circumstances of the case. Thus, the impugned order is set aside. The appeal is allowed with consequential benefits to the appellant."*

10.3. From the decisions cited supra, we are of the view that the Show Cause Notice, issued without quantifying the demand of Service Tax category-wise, is void ab initio and hence the demand of Service Tax confirmed on the basis of such Notice is legally not sustainable. Consequently, we hold that the demand of Service Tax confirmed in the impugned order is not sustainable and hence, the same is set aside.

11. As the demand of Service Tax is not sustained, the question of demanding interest and imposing penalties does not arise. Accordingly, we set aside the demand of interest and penalties imposed in the impugned order.

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

(Order pronounced in the open court on **29.07.2025**)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Sdd