

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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 75215 of 2023

(Arising out of Order-in-Original No. 04/Commissioner/CGST Shillong/2022-23 dated 29.03.2023 passed by the Commissioner of Central Goods & Service Tax, Crescens Building, Mahatma Gandhi Road, Shillong – 793 001)

M/s. Ranger Security Service Organization : Appellant

Kharanaior Building, Near Post Office,
Nehu Road, MawlaiPhudmawri, East Khasi Hills,
Meghalaya – 793 008

VERSUS

Commissioner of Central Goods and Service Tax : Respondent

Crescens Building, 110, M.G. Road,
Shillong – 793 001

APPEARANCE:

Shri Pranab Sikdar, Consultant,
Shri Dipunjoy Bhattacharya, Advocate
For the Appellant

Shri Debapriya Sue, Authorized Representative,
For the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

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

FINAL ORDER NO. 77393 / 2025

DATE OF HEARING: 04.09.2025

DATE OF DECISION: 12.09.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

M/s. Ranger Security Services Organisation,
Kharnaier Building, Near Post Office, NEHU Road,
Mawlai Phudmawri, East Khasi Hills, Meghalaya -
793008 (hereinafter referred to as the "appellant"), is
a provider of services of the nature of manpower
supply and security service, house-keeping service,
cleaning service, etc., mostly to North Eastern Indira
Gandhi Regional Institute of Health & Medical Sciences
(NEIGRIHMS) and other persons including

Government Departments. The present appeal has been filed by the appellant against the impugned Order-In-Original dated 29.03.2023, wherein a total demand of service tax of Rs 1,97,64,927/- has been confirmed against them, along with interest and equal amount of tax as penalty, under the categories of 'Security Service' and 'Manpower Supply Service'.

2. It is the submission of the appellant that the demand has been raised and confirmed on the basis of CBDT data without adducing any corroborative evidence, which is impermissible. Accordingly, the appellant contends that the demand confirmed in the impugned order is not sustainable. In support of this view, the appellant relied on the following decisions: -

- i. *M/s. Rishu Enterprise v. Commissioner of C.G.S.T. & C.Ex., Dibrugarh [Service Tax Appeal No.75509 of 2022 – CESTAT, Kolkata].*
- ii. *M/s. Quest Engineers & Consultant Pvt. Ltd. v. Commissioner of C.G.S.T. & C.Ex., Allahabad [2022 (58) G.S.T.L. 345 (Tri-All)]*
- iii. *M/s. GopiChenna v. Commissioner of Central Tax, Medchal – GST [Final Order No. A/30078-30079/2024 dated 26.02.2024 in Service Tax Appeal No. 30412 of 2023 & anr. – CESTAT, Hyderabad]*
- iv. *M/s. Indian Machine Tools Manufacturers Association v. The Commissioner of C.Ex., Panchkula [Final Order No. 60403 of 2023 dated 18.09.2023 in Service Tax Appeal No. 4174 of 2012 – CESTAT, Chandigarh]*
- v. *M/s. Forward Resources Pvt. Ltd. v. Commissioner of C.Ex. & S.T., Surat-I [2023 (69) G.S.T.L. 76 (Tri. – Ahmd.)]*

2.2. Regarding merits of the issue, the appellant submits that the demand has been confirmed in respect of 'Security Service' and 'Manpower Supply Service', rendered mainly to NEIGRIHMS. Out of the total demand confirmed, it is submitted that Rs.1,67,91,598/- pertained to NEIGRIHMS.

2.3. The appellant submits that as per Notification No. 30/2012-Service Tax, dated 20th June, 2012, (item 8 of the TABLE) as amended by the Notification No. 45/2012-Service Tax dated 07.08.2012 (inserting Security Service), service tax in respect of "Manpower Supply Service" and "Security Service" is to be paid by the recipients of the said services. The appellant submits that the said Notification has been further amended by the Notification No. 07/2015-Service Tax dated 1st March, 2015, whereby 100% service tax is to be paid by the recipients of the services under the category of "Manpower Supply Service" and "Security Service"; this notification came into effect from 01.04.2015. The appellant points out that the entire demand confirmed in the impugned order falls within the period after the issue of Notification No. 07/2015-Service Tax dated 1st March, 2015 and hence, it is contended that they are not liable to pay service tax on the above said services as the liability of payment of 100% service tax in respect of these services is on the recipients of the services. Accordingly, the appellant submitted that the demand of service tax confirmed on them under the categories of "Security Service" and "Manpower Supply Service", in the impugned order, is not sustainable.

2.4. The appellant further submitted that they have rendered service to NEIGRIHMS under the category of 'Rent-a-Cab service', for which also service tax is

payable by the recipients under the reverse charge, which has been accepted by the Id. adjudicating authority. However, it is their plea that the Id. adjudicating authority has not extended the same benefit which is available for "Manpower Supply Service" and "Security Service"; that there is no dispute in this case that the liability to pay service tax confirmed in the impugned order under the categories of "Security Service" and "Manpower Supply Service" is only on the recipients.

2.5. In view of the above submissions, the appellant contends that the demand confirmed against them in the impugned order, along with interest and penalty thereon, is not sustainable and accordingly, have prayed for setting aside the same.

3. On the other hand, the Id. Authorized Representative of the Revenue reiterates the findings in the impugned order.

4. Heard both sides and perused the appeal records.

5. In the present case, a demand of service tax of Rs. 1,97,64,927/- along with interest and equal amount of tax as penalty has been confirmed in the impugned order under the categories of "Security Service" and "Manpower Supply Service"

5.1. We find that the present demand has been raised and confirmed on the basis of data provided by the Central Board of Direct Taxes (CBDT), without adducing any corroborative evidence. A perusal of Paragraphs 1.3 and 1.6 of the Order-in-Original reveal that the entire basis for raising the impugned demand rests solely on CBDT (Income Tax) data for the Financial Year 2016-17. It is observed that the

said demand has been confirmed without the support of any independent or corroborative evidence from the Service Tax records. Such mechanical reliance on Income Tax data, without verification of the nature of receipts or proof of taxable services rendered, is impermissible in law. It is a settled legal position that mere entries in income tax returns or Form 26AS cannot, by themselves, establish liability under the Finance Act, 1994, unless corroborated by evidence demonstrating rendition of taxable service.

5.2. In support of this view, we rely upon the decision in the case of *M/s. Rishu Enterprise vs Commissioner of C.G.S.T. & Excise, Dibrugarh*, in Final Order No. 75177 of 2024 dated 08.02.2024 in Service Tax Appeal No. 75509 of 2022 [CESTAT, Kolkata], wherein this Tribunal has observed as under: -

"8. In view of the judicial pronouncement of this Tribunal, we hold that merely on the basis of Form 26-AS issued by the Income Tax Department, the demand of Service Tax is not sustainable against the appellant.

.....

11. In view of this, we hold that the impugned demand is not sustainable against the appellant on the basis of the details provided by the Income Tax Department in Form 26AS and the extended period of limitation is not invokable."

5.3. The same view has been held by the Tribunal at Allahabad in the case of *M/s. Quest Engineers & Consultant Pvt. Ltd. v. Commissioner of C.G.S.T. & C.Ex., Allahabad* [2022 (58) G.S.T.L. 345 (Tri. – All.)] observing as follows: -

"12.

....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."

5.4. In this regard, we also find it pertinent to refer to the decision rendered in the case of *M/s. GopiChenna v. Commissioner of Central Tax, Medchal – GST [Final Order No. A/30078-30079/2024 dated 26.02.2024 in Service Tax Appeal No. 30412 of 2023 & anr. – CESTAT, Hyderabad]*, wherein a similar view has been expressed by the Tribunal at Hyderabad. The relevant observation of the Tribunal in the aforesaid case is reproduced below: -

"7. On going through the records of the case, it is clear that the cases are made on the basis of third party data i.e., amounts reflected in Income Tax Returns and in Form 26AS. Revenue takes the stand that in the Negative List regime, Department is not obliged to prove the provision of a particular service to demand service tax and further, the Appellants could not explain that the difference satisfactorily. I find that this is not the correct approach; exigibility to service tax depends on the service provider, service rendered, service recipient and the consideration thereof. Unless these four elements have been connected logically, demand of service tax cannot be confirmed merely on the basis of figures reflected in other statutory records."

5.5. Further, in the case of *M/s. Indian Machine Tools Manufacturers Association v. The Commissioner of C.Ex., Panchkula* [Final Order No. 60403 of 2023 dated 18.09.2023 in Service Tax Appeal No. 4174 of 2012 – CESTAT, Chandigarh], the Tribunal, Chandigarh has held as under:

"11. Coming to third and final issue as to whether any demand can be sustained on the basis of difference between the figures of ST-3 Returns and the balance sheets, we find that it is a settled principle of law that service tax can be levied only when there is a **clear identification of service provider, service recipient and consideration paid for the same. In the absence of any such evidence of the service recipient and the service provided, service tax cannot be demanded and confirmed.** For this reason, we are of the considered opinion that it is not open for the Department to raise demands on the basis of other statutory returns like Income Tax Returns or balance sheets without proving that such service has been rendered by the assessee and consideration thereof has been received. Similarly, no service tax demand can be raised and confirmed on the basis of notional income."

(Emphasis supplied)

5.6. We also refer to the decision of the Tribunal, Ahmedabad in the case of *M/s. Forward Resources Pvt. Ltd. v. Commissioner of C.Ex. & S.T., Surat-I* [2023 (69) G.S.T.L. 76 (Tri. – Ahmd.)], wherein a similar issue has been examined by the Tribunal. The relevant observations of the Tribunal in the aforesaid case are reproduced below: -

"5.6 We also find that in the present matter for confirmation of service tax demand Ld. Commissioner also relies upon the TDS/26AS Statement. The said statement under provisions of Income-tax Act, 1961 is an Annual Consolidated tax statement. Income-tax and service tax are two different/separate and independent Acts and their provisions operating in two different fields. Therefore by relying the 26AS/TDS Statement under the Service Tax Act, demand of service tax cannot be made. We also find the support from the decision of Ved Security v. CCE, Ranchi-III - 2019 (6) TMI 383 CESTAT, Kolkata wherein it was held that the value of taxable services cannot be arrived at merely on the basis of the TDS statements filed by the clients inasmuch as even if the payments are not made by the client, the expenditure are booked based on which the Form 26AS is filed, which cannot be considered as value of taxable services for the purpose of demand of Service tax."

5.7. Following the ratio of the decisions cited supra, we hold that the demand of service tax confirmed in the impugned order, solely relying the data received from CBDT, without adducing corroborative evidence in support, cannot be sustained. Thus, we observe that the demand confirmed in the impugned order is liable to be set aside on this ground itself.

6. Regarding the merits of the case, the submission of the appellant is that as per Notification No. 30/2012-Service Tax, dated 20th June, 2012, (item 8 of the TABLE) as amended by Notification No. 45/2012-Service Tax dated 07.08.2012 (inserting Security Service) and Notification No. 07/2015-Service Tax dated 1st March, 2015, 100% service tax is to be paid by the recipients of the services in respect of "Security Service" and "Manpower Supply Service". The appellant has claimed the benefit of these notifications and contended that as per these notifications, the liability of payment of service tax is

on the recipients of service. For ready reference, the relevant parts of the said notifications are reproduced below: -

▪ **Notification No. 30/2012-S.T., dated 20-6-2012**

.....

(II) *The extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (I) shall be as specified in the following Table, namely :-*

TABLE

Sl. No.	Description of a service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
8.	<i>in respect of services provided or agreed to be provided by way of supply of manpower for any purpose</i>	25%	75 %

▪ **Notification No. 45/2012-S.T., dated 7-8-2012**

.....

(b) *in para II, in the Table,-*

(i) *.....*

(ii) in Sl. No. 8, in the entries under the heading 'Description of a service', after the words "manpower for any purpose", the words "or security services" shall be inserted.

(Emphasis supplied)

▪ **Notification No. 7/2015-S.T., dated 1-3-2015**

.....

(B) *in the Table,-*

(i) *in column (4), for the column heading, the following column heading shall be substituted with effect from 1st March, 2015, namely :-*

"Percentage of service tax payable by any person liable for paying service tax other than the service provider";

(ii)

(iii) *against Sl. No. 8, in column (3) and column (4), for the existing entries, the entries "Nil" and "100%" shall respectively be substituted;*

(iv)

2. Save as otherwise provided, this notification shall come into force on the 1st day of April, 2015.

6.1. From the relevant portions of the said Notifications i.e., Notification No. 30/2012-S.T., dated 20-6-2012, Notification No. 45/2012-S.T., dated 7-8-2012 and Notification No. 7/2015-S.T., dated 1-3-2015, extracted above, it is evident that after issue of the Notification No. 7/2015-S.T., dated 1-3-2015, which came into effect from 01.04.2015, in respect of Security Service or Manpower Supply service, 100% service tax is payable by the recipients of service. In view thereof, we agree with the submission of the appellant that the demand of service tax confirmed against them under the categories of "Security Service" and "Manpower Supply Service" is not sustainable.

7. It is further observed that the appellant have rendered service to NEIGRIHMS, under the category of 'Rent-a-Cab service', for which also service tax is payable by the recipients under the reverse charge, which has been accepted by the Id. adjudicating authority. However, it is seen that the Id. adjudicating authority has not extended the same benefit to the appellant in respect of "Manpower Supply Service" and "Security Service". In any case, as there is no dispute in this case that the liability to pay service tax under the categories of "Security Service" and "Manpower Supply Service" is not on the appellant as the liability has been fastened upon on the service recipients, we hold that the demand of service tax of Rs.1,97,64,927/- confirmed in the impugned order under the above said categories is not sustainable. Hence, the same is set aside.

7.1. As the demand of service tax against the appellant is not sustainable, the question of demanding interest or imposing penalty does not arise.

8. In view of the above discussions, 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 **12.09.2025**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd