IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA
Court No.1

Service Tax Appeal No.76162 of 2024

(Arising out of Order-in-Appeal No.84/ST/BBSR-GST/2024 dated 30.06.2024 passed by Commissioner (Appeals) of CGST & Central Excise, Bhubaneswar)

M/s Shankar Fly Ash Bricks Industry
(Baghabahali,PO-Pingal,PS-Kalinga Nagar,Dist.-Jajpur, Odisha)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Bhubaneswar
(C.R.Building, Rajaswa Vihar, Bhubaneswar-7, Odisha)

Respondent

Appearance:
Shri Tarun Agarwal, Chartered Accountant for the Appellant
Shri D.Sue, Authorized Representative for the Respondent

CORAM:
HON'BLE SHRI ASHOK JINDAL, JUDICIAL MEMBER

DATE OF HEARING : 03 SEPTEMER 2025
DATE OF DECISION : 03 SEPTEMBER 2025

FINAL ORDER NO.77407/2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the demand of service tax was confirmed against the appellant on the basis of their income tax returns, balance sheets/profit and loss accounts received from the Income Tax Department.

2. The facts of the case are that the appellant is engaged in transportation of fly ash bricks and also having a tractor, which has been used for transporting the agricultural product in local areas. On the basis of Data received from the Income Tax Department, summons dated 18.12.2020 & 22.12.2020, were issued to the appellant and thereafter, immediately on 29.12.2020, a show-cause notice was issued to demand service tax from the appellant.

3. The adjudicating authority confirmed the demand against the appellant demanding service tax for transportation of goods by the tractor along with interest and penalty was also imposed. The said order was challenged before the ld.Commissioner (Appeals), who affirmed the adjudication order. Therefore, against the said order, the appellant is before me.

4. Heard both the parties and considered the submissions.

5. I find that in this case, the claim of the appellant is that the charges of every consignment is less than Rs.750/- and they have totally received an amount of Rs.15,55,100/- for transporting of agricultural products and fly ash bricks in the local areas. Admittedly, in this case, no investigation was done before issuance of show-cause notice. Therefore, the claim of the appellant has not been denied by any cogent evidence that the appellant has charged more than Rs.750/-. It is an admitted fact on record that the appellant has not issued any consignment note, therefore, the appellant is exempted from payment of service tax in terms of provisions under Section 66D read with Notification No.25/2012-ST dated 20.06.2012 Sl.No.21.

6. In view of this, I hold that whole of the demand is not sustainable. Since no demand is sustainable, consequently, no penalty is imposable on the appellant. Accordingly, the impugned order is set aside.

7. In the result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open Court)

(Ashok Jindal)
Member (Judicial)

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