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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 75893 of 2017

(Arising out of Order-in-Original No. 113/COMMR/ST-II/KOL/2016-17 dated 20.01.2017 passed by the Commissioner of Service Tax-II, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

M/s. CISC-CMAT-UCC (JV) **: Appellant**
FMC Fortuna, 3rd Floor, Unit: A-7,
234 / 3A, A.J.C. Bose Road,
Kolkata – 700 020

VERSUS

Commissioner of Service Tax-II **: Respondent**
Kendriya Utpad Shulk Bhawan,
180, Shantipally, Rajdanga Main Road,
Kolkata – 700 069

APPEARANCE:

Shri Kartik Kurmy, 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. 77441 / 2025

DATE OF HEARING / DECISION: 18.09.2025

ORDER: [PER SHRI R. MURALIDHAR]

The appellant opted for the VCES scheme by filing the requisite form declaring therein the "tax dues" as Rs.1,98,17,684/-. The said declaration was filed on 27.12.2013.

1.1. On 24.12.2014, a Show Cause Notice came to be issued on the ground that the "tax dues" declared by the appellant were 'substantially false' as the appellant was required to show their tax dues as Rs.4,41,69,796/-. The Department arrived at this amount by corresponding with various clients of the appellant.

1.2. The appellant, in their reply to the Show Cause Notice, clarified that they had paid Rs.1,18,92,022/- by 24.08.2009 and Rs.1,31,26,528/- by 30.12.2009. These Service Tax payments were properly reflected in their S.T.-3 Returns for the periods October 2008 to March 2009 and April 2009 to September, 2010; Service Tax was paid by utilizing CENVAT Credit. Therefore, it was stated by the appellant that the allegation of a substantial variation in the Service Tax dues declared by them was improper. After finding that there was an error of Rs.7,71,352/-, the same was paid by the appellant, along with interest of Rs.48,413/-, on 27.12.2014.

1.3. The ld. adjudicating authority, after considering all the factual details, has acknowledged receipt of the entire payment of Rs.4,41,69,796/-. He has also appropriated the amount of Rs.48,413/- towards payment of interest. Further, the ld. adjudicating authority dropped the penalties proposed under Sections 77 and 78 of the Finance Act, 1994.

2. Being aggrieved only by the confirmation of the interest portion, the appellant is before us.

3. The Ld. Counsel appearing on behalf of the appellant takes us through the factual details of the case. He submits that the ld. adjudicating authority, in the impugned order, has admitted that the entire amount of Rs.4,41,69,796/- has been paid and has also granted immunity from any further action; the very fact that the ld. adjudicating authority has also dropped the penalty imposed under Section 78 of the Act would clarify as to there being no suppression on the part of the appellant.

2.1. He further submits that the appellant was able to properly explain that during the period from 2008-09 to 2009-10, they had paid Service Tax by utilizing CENVAT Credit, which is reflected in Table-A at page 41 of the impugned order. Thus, he submits that the appellant should be made immune to interest liabilities, if any.

3. The Ld. Authorized Representative of the Revenue submits that the appellant has not declared the correct and true value of tax dues while filing their declaration under the VCES scheme on 27.12.2013; the Department had to correspond with the appellant's clients to get the details and find out that the appellant was required to pay Rs.4,41,69,796/-. He admits that after going through the factual details, the main issue has been dropped by the ld. adjudicating authority and no further appeal has been filed by the Department. However, he contends that interest is still required to be paid as has been held by the ld. adjudicating authority.

4. Heard both sides and perused the appeal papers.

5. We have gone through the Table-A provided at page 41 of the impugned order, which is reproduced below: -

Table-A

Year	ST-3 return for the period	Date of Filing	Service Tax (incl. Cess) payable (Rs.)	Total S.tax (incl. cess) paid as per ST-3 (Rs.)		Total S.tax paid (Rs.)	Interest paid Rs.)	Amount Paid for delayed filing of ST-3
				Cash	Cenvat			
2008-09	Oct-Mar	24.08.09	11892022	0	11892022	11892022	0	2000
2009-10	Apr-Sept	30.12.09	13126528	0	13126528	13126528	0	
	Oct-Mar	02.07.10	15992408	1961462	14030946	15992408	43871	2000
2010-11	Apr-Sept	16.06.11	23261918	9732313	13529604	23261918	1141039	20000
Service Tax (incl. Cess) paid upto 01.03.2013						64272876	1184910	
2010-11	Oct-Mar	10.10.13	24770381	10012131	14758250	24770381		20000
2011-12	Apr-Sept	10.10.13	19399449	9034201	9593897	18628098		20000
	Oct-Mar	09.12.13	0	0	0	0	0	
	Service Tax (incl. Cess) paid after 01.03.2013					43398479		
TOTAL			108442706			107671355		

6. It is seen from paragraph 4.5 of the said order that the ld. adjudicating authority has noted that the appellant has belatedly paid the further amount of Rs.7,71,352/-, along with interest of Rs.48,413/-. In the order portion, he has acknowledged the receipt of Service Tax to the tune of Rs.4,41,69,796/-. The ld. adjudicating authority has also ordered for payment of interest and has appropriated an amount of Rs.48,413/- towards interest.

6.1. Further, holding that there was no suppression on the part of the appellant, the penalty proposed under Section 78 of the Act has also been dropped.

7. All these factual details clearly show that the appellant had been fastened with unnecessary litigation by issuance of the Show Cause Notice on the ground of the "tax dues" declared by them being substantially erroneous. The appellant were able to prove that they had been discharging the Service Tax dues normally during the periods 2008-09 and 2009-10 and all the dues have been paid and then appropriated.

8. We do not find any reason to direct the appellant to pay any further interest since they have paid all the amounts properly in terms of the VCES scheme.

9. The appeal stands allowed. The appellant shall be eligible for consequential reliefs, if any, as per law.

(Dictated and pronounced in the open court)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)

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

Sdd