

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 75301 of 2024**

(Arising out of Order-in-Appeal No.619/GHY(A)/COM/ST/GHY/2023 dated 09.11.2023 passed by Commissioner of CGST & C.Ex, Guwahati)

MD Azamul Hoque, : **Appellant**
Kodaldhowa, Fakiragram, Kokrajhar, Assam-783345

VERSUS

Commissioner of Central Taxes & Central Excise, : **Respondent**
Guwahati
3rd Floor, GST Bhawan, Kedar Road, Machkhowa,
Guwahati-781001.

APPEARANCE:

Shri Punit Agarwal, Advocate for the Appellant

Shri D.Sue, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO.77732/ 2025

DATE OF HEARING :13.11.2025

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Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant was providing certain services which are taxable as well as exempted but was not registered to the Service Tax department. On the basis of information received for the period 2016-17 from Income Tax Department in the form of 26 AS, investigation was conducted with the appellant in which appellant did not co-operate with the authorities below. Thereafter a Show Cause Notice was issued to the appellant to demand Service Tax on the figure shown as income towards services rendered by them and matter was

adjudicated. During the course of adjudication, the appellant provided certain documents in support of their claim that they were providing exempted services mainly to Railways. The Adjudicating Authorities considered the documents provided by the appellant and some of the documents were rejected for want of further information and demand of Service Tax was confirmed. Some part of the demand was also confirmed towards providing taxable services to the private parties and penalty was also imposed.

3. Aggrieved from the said order, the appellant is before me.

4. The Ld. Consultant appearing on behalf of the appellant submits that the Show Cause Notice has been issued on the basis of best judgement assessment which is not permissible under law under Section 73 of the Finance Act, 1994. Therefore, the Show Cause Notice was defective and the proceedings against the appellant are required to be dropped. Further, it is his submission that appellant is providing mainly exempted services and a small portion of taxable service which is within the threshold limit of Rs. 10,00,000/-. Therefore, no Service Tax is payable by the appellant. He further submitted that an amount received from Account office /CON for Rs. 902735.00 is only services rendered to Railways and during the course of Adjudication he could not produce the supporting documents for their claim. Therefore, the said demand is required to be dropped.

5. On the other hand the Ld. Authorized Representative submitted that the appellant was providing taxable services but part of the services

was exempt by way of exemption notification which does not mean that appellant is providing exempted services. Therefore, the remaining services which were provided by the appellant to private parties they are liable to pay tax.

6. Heard the parties. Considered the submissions.

7. As appellant has provided documents in support of their claim that services rendered to Account Office/Con for Rs. 902735.00. The documents could not be produced before the authorities below and today they have produced all the documents. In that circumstances, in the interest of justice, the matter should be remanded back to the Adjudicating Authority for consideration of those documents and to pass an appropriate order whether on the basis of those documents appellant is entitled for exemption under Notification No. 25/2012 ST dated 20.06.2012 or not. The appellant is also raising certain other issues on merits. The Adjudicating Authority shall consider those arguments at the time of hearing at the adjudication stage.

8. In view of this by setting aside the impugned order, I remand matte back to the Adjudicating Authority for fresh adjudication keeping all issues open. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)