

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

Court No. 2

Service Tax Appeal No. 75885 of 2022

(Arising out of Order-in-Appeal No. 08/BOL-ST/2022-23 dated 30.08.2022 passed by Commissioner (Appeal), Siliguri Appeals Commissionerate)

M/s. Joydeb Dey

(Nagenbabu Lane, Nischintyapur, Rampurhat, Pin-731224, Dist. Birbhum)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Bolpur

(Nanoor, Chandidas Road, Sian, Bolpur, Dist. Birbhum)

Respondent

APPEARANCE :

Shri D. B. Thakur, Advocate for the Appellant

Smt. K. Kalpana & Shri S. K. Singh, both Authorized Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

FINAL ORDER NO.77933/2025

Date of Hearing : 23 December 2025

Date of Decision : 23 December 2025

PER DR. RACHNA GUPTA, MEMBER (JUDICIAL)

The present appeal is filed assailing Order-in-Appeal No. 08/BOL-ST/2022-23 dated 30.08.2022. The facts which culminated in the impugned order are as follows:-

The appellant herein is engaged in providing "Works Contract Service". Acting on 3rd party information/data provided by the DG (Audit), New Delhi, the Department observed that the appellant had provided aforesaid work during the financial year 2014-15 for an amount of Rs. 18,63,588/-. However, the returns filed by the appellant for the said period were showing the gross value as zero/Nil for the period April 2014 to September 2014 and for the

remain financial year 2014-15 no return was filed by the appellant. Further examination/investigation revealed that the appellant did not pay Service Tax of Rs. 2,30,340/- during the aforesaid period by way of suppressing the taxable value. Resultantly vide Show Cause Notice bearing No.11/AC/ST/BIR/2019-20 dated 22.10.2019, the aforesaid amount of Service Tax was proposed to be recovered along with the interest and appropriate penalty. The proposal was initially confirmed vide Order-in-Original No. 14/AC/ST/JD/CGST/DIVN/BIR/2020 dated 18/08/2020. Appeal against the said order has been dismissed vide the impugned order/Order-in-Appeal dated 30th August 2022. Being aggrieved, the appellant is before this Tribunal.

2. I have heard Shri S. B. Thakur, Advocate for the appellant and Shri S. K. Singh, Authorized Representative for the Respondent.
3. The learned Counsel for the appellant has pointed out towards the noticed contradiction in the impugned order mentioning that in Para 4.1 thereof it has clearly been recorded that the copies of challans/invoices and contracts were filed by the appellant to corroborate their contentions. However, still in the Para 5.4, it has been recorded that the appellant failed to produce records/documents before the lower authority leading to passing of the impugned order.
4. The learned Counsel has mentioned none of the documents have been considered by the Adjudicating Authority. He prays for remanding the matter for fresh hearing of the appeal because of the aforesaid noticed contradiction.
5. The Learned Authorized Representative for the Respondent on the other hand, rebutted the submission denying the alleged contraction. It is mentioned that the documents were not filed before the original adjudicating authority which is mentioned in Para 5.4 of the impugned

order. Subsequent Para 5.5 clearly shows that the Commissioner (Appeals) has perused all the documents and has passed the order finding that there is no evidence to differ from the findings in the order-in-Original and thus has rightly dismissed the appeal.

6. Having heard the rival contentions, perusing the record of appeal and the order under challenge, it is observed that there is no apparent contradiction in Para 4.1 and Para 5.4 of the impugned Order. Para 5.5 rather clarifies that the Commissioner (Appeals) acknowledges the documents as that of challans/invoices and contracts to have been produced before him. However, there is found no mention about the computation of the actual Service Tax liability based on the said documents. Commissioner (Appeals) has simply held that since the appellant did not file any statutory ST-3 Returns, his entitlement vis-à-vis Notification No. 30/2012-ST dated 20th June 2012 could not have been considered. Based on this observation only the Order-in-Original have been upheld. The documents as that of invoices/challans and the contracts are otherwise sufficient documents to conclude about the nature of the contract, terms and conditions and the fact about involvement of goods in the impugned transactions of rendering service. This observation is sufficient for me to remand the matter back to the Commissioner (Appeals) with the direction to peruse all the terms and condition of the contracts and the content of the invoices to arrive at the conclusion vis-à-vis benefit of Notification No. 30/2012-ST dated 20th June 2012 i.e. about no liability of the appellant/service provider for liability under reverse charge mechanism. In case Commissioner (Appeals) concludes appellant to be liable to pay service tax, still the service in question being WCS, the angle of eligibility for abatement has also to be adjudicated and the demand in question has to be computed accordingly. It is therefore directed that a fresh decision is required to be passed by Commissioner (Appeals) keeping in view all the aspects of abatement, reverse charge mechanism and the actual Service Tax liability of the appellant. The demand should be clearly computed after giving a reasonable opportunity to the appellant.

7. The Commissioner (Appeals) is also required to pass the order within three months from the date of communication of this order.

8. In view of the above terms, the appeal stands allowed of by way of remand.

(Dictated and pronounced in the open court.)

Sd/-
(Dr. Rachna Gupta)
Member (Judicial)

Pooja