

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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.76454 of 2017

(Arising out of Order-in-Appeal No.21/ST/II/2017 dated 27.04.2017 passed by
Commissioner (Appeals) of CGST & Central Excise, Bhubaneswa)

M/s New Modern Technomech Pvt. Ltd.

(S-2/29, Chhancha Industrial Estate, Station Bazar, Baripada, Odisha)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Bhubaneswar

(C.R.Building, Rajaswa Vihar, Bhubaneswar-7, Odisha)

Respondent

APPERANCE :

Mr.S.Das, Chartered Accountant for the Appellant

Mr.S.K.Jha, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NO.75313/2026

DATE OF HEARING : 25 FEBRUARY 2026

DATE OF DECISION : 25 FEBRUARY 2026

Per Ashok Jindal :

The appellant is in appeal against the impugned order demanding service tax from the appellant.

2. The facts of the case in brief are that the appellant was a service provider and registered with the Service Tax Department.

2.1 During the course of verification the records of Service Tax under EA-2000 Audit, on scrutiny of the profit and loss accounts vis-à-vis ST-3 Returns for the financial year, 2005-06, it was noticed that the appellant has suppressed the taxable value in respect of transport of goods by road service and not paid service tax on it.

Service Tax Appeal No.76454 of 2017

2.2 A demand-cum-Show-cause notice was issued to the appellant for recovery of the service tax amounting to Rs.75,505/-.

2.3 The adjudicating authority dropped the proceedings against the appellant on the ground that the appellants have trucks in their own name and provided the service to self.

2.4 The said order was challenged before the Id.Commissioner (Appeals), who set aside the adjudication order. Therefore, the appellant is before us.

3. The Id.Counsel for the appellant submits that initially, the trucks were in the name of the M/s New Modern Furniture, but there was an agreement dated 01.07.1999 between the appellant and M/s New Modern Furniture wherein both sides agreed that M/s New Modern Technomech Pvt. Ltd. has taken over the name, style, constitution and all assets and liabilities of M/s New Modern Furniture. Therefore, the appellant has provided the service to self. In that circumstances, the demand of service tax is not sustainable.

4. The Id.A.R. for the Revenue has justified the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that during the course of hearing, the appellant has provided the said agreement between M/s New Modern Furniture and themselves. For better appreciation of facts, the same agreement is extracted herein below :

Service Tax Appeal No.76454 of 2017**NEW MODERN TECHNOMECH PRIVATE LIMITED****FORMERLY:- M/S. NEW MODERN FURNITURE****S-2/29, Chhancha Industrial Estate****STATION BAZAR, BARIPADA****Dist:- Mayurbhanj, Orissa-757001**

☎ 06792- 55721 (Fax)

84027 (O)

52937 (R)

Regd.No-SB/15/10/02064/PMT/RIP/ANC/4-2-84
EPM Regd No.-996/EPM-Dated 27-3-85O.S.T. No - MB-2014-DT-2-12.83
C.S.T. No.- MBC-924-DT-8-4-87

Ref.....

Date.....

AGREEMENT

This Agreement executed on this 1st day of July'1999 between :

- 1) M/s. New Modern Furniture, Shed No S2/29, Chhancha Industrial Estate, IDCO Plot No. 33, Baripada-757001, Dist.: Mayurbhanj, Odisha
Proprietor : Shasanka Sekhar Sarangi.

AND

- 2) M/s. New Modern Technmech (P) Ltd., Shed No. S2/29, Chhancha Industrial Estate, IDCO Plot No. 33, Baripada-757001, Dist.: Mayurbhanj, Odisha
Director: 1) Shasanka Sekhar Sarangi
2) Seba Sarangi

Do hereby agreed by both the parties that M/s. New Modern Technmech (P) Ltd., Shed No. S2/29, Chhancha Industrial Estate, IDCO Plot No. 33, Baripada-757001, Dist.: Mayurbhanj, Odisha a company incorporated under the Laws of Indian Companies Act, 1956 has taken over the name, style, constitution and all assets & liabilities of M/s. New Modern Furniture, Shed No S2/29, Chhancha Industrial Estate, IDCO Plot No. 33, Baripada-757001, Dist.: Mayurbhanj, Odisha a proprietorship firm w.e.f. 01.07.1999. Hence M/s. New Modern Technmech (P) Ltd. has to execute all the necessary correspondences on behalf of M/s. New Modern Furniture.

Handed over by

Taken over by

M/s. New Modern Furniture,

M/s. New Modern Technomech (P) Ltd.

Proprietor

Director

Service Tax Appeal No.76454 of 2017

And the appellant has filed an affidavit satisfying that the business firm of M/s New Modern Furniture, was taken over by the appellant as per Agreement dated 1st July, 1999. The said Affidavit is also extracted herein below :

Si.No. Date. 12/2/20

Notary Stamp Not Affix
Case to Not Available

भारतीय गैर न्यायिक

पचास
रुपये

NOTARY
P.K. DASH
R. No. 7708
BARIPADA
DIST. MAYURBHANJ
ODISHA

FIFTY
RUPEES

Rs.50

INDIA NON JUDICIAL

ଓଡ଼ିଶା ओडिशा ODISHA F 979835

Before Notary Public, Baripada, Dist.- Mayurbhanj

AFFIDAVIT

I, Sri Shasanka Sekhar Sarangi aged about 69 years , Son of Late Shyam Sundar Sarangi resident of Ward No. 05, Baripada, Dist.- Mayurbhanj (Odisha) and I am being one of the Directors of M/s. New Modern Technomech (P) Ltd., S2/29, Chancha Industrial Estate, PO:Baripada-757001, Dist.: Mayurbhanj (Odisha) solemnly affirm as under :

That, the entire business of M/s. New Modern Furniture , a Proprietorship Business firm was taken over by M/s. New Modern Technomech P) Ltd. as per Agreement dated 1st July 1999.

That, this affidavit is sworn to be produced before the competent authority of Custom, Excise and Service Tax Appellate Tribunal.

VERIFICATION

I, Sri Shasanka Sekhar Sarangi the deponent do hereby solemnly affirm and state that the facts mentioned above are true to the best of my knowledge and belief and I verify and sign on this verification to day the 12th day of February 2020

New Modern Technomech Pvt. Ltd.
Shasanka Sekhar Sarangi
Director
Signature of the deponent

Identified by me
(Advocate, Baripada)

Solemnly Affirm and declared
on Identification of Advocate

P.K. DASH
NOTARY, BARIPADA

Service Tax Appeal No.76454 of 2017

As it is apparent on record that the business firm of M/s New Modern Furniture, was taken over by the appellant, in that circumstances, the transport services have been provided to self, therefore, no service tax is payable by the appellant.

7. In this view, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in the open Court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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