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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75083 of 2023

(Arising out of Order-in-Appeal No. 125/Pat/ST/Appeal/2022-23 dated 29.11.2022 passed by the Commissioner (Appeals) of Customs, Central G.S.T. and Central Excise, Patna, 2nd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna)

M/s. Devendra Kumar & Company **: Appellant**
Kodarkataa, Barjee, Motipur,
Muzaffarpur – 843 111

VERSUS

Commissioner of C.G.S.T. and Central Excise **: Respondent**
Patna-II Commissionerate,
3rd to 5th Floor, CTTC Building,
Sanchar Parisar, Budha Marg,
Patna – 800 001

<u>APPEARANCE</u>:

Shri Amit Kumar, Advocate, for the Appellant

Ms. Suman, Authorized Representative, for the Respondent

<u>CORAM</u>:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 75487 / 2026

DATE OF HEARING / DECISION: 08.04.2026

ORDER:

The appellant is in appeal against the impugned order wherein the demand of Service Tax of Rs.18,25,598/- has been confirmed against them, along with interest and imposition of penalties thereon.

2. The facts of the case are that on the basis of data received from the Income Tax Department in the form of Form No. 26AS for the Financial Year 2015-16, a Show Cause Notice was issued on 23.12.2020 on the allegation of suppression of income records by the appellant. It was alleged that the appellant has

received an amount of Rs.1,25,90,335/-, but not paid any Service Tax thereon, in respect of provision of taxable services.

2.1. Before issuance of the Show Cause Notice, three letters were issued to the appellant, on 01.12.2020, 07.12.2020 and 11.12.2020 and thereafter, the impugned Show Cause Notice has been issued within 12 days, on 23.12.2020.

3. During the course of adjudication, the ld. adjudicating authority confirmed the demand of Service Tax, along with interest and penalty, as proposed.

4. Thereafter, the appellant filed an appeal before the Ld. Commissioner (Appeals), before whom the appellant provided the details of the work performed by them; it was inter alia submitted that during the said period, the appellant got the work order for construction of Senior Secondary Schools at Panchayat Level in Bihar under Group No. SSS-50; that the work order was issued by the Bihar State Educational Infrastructure Development Corporation Limited (BSEIDCL), which is a corporation set up by the Government of Bihar with 99.75% shareholding and engaged in supervision and monitoring of construction of educational of educational infrastructure, and also providing other functions thereof. Thus the appellant claimed before the Ld. Commissioner (Appeals) that they were not liable to pay Service Tax on the said activity undertaken by them as the same is exempted from levy of Service Tax in terms of Notification No. 25/2012-S.T. dated 20.06.2012.

4.1. However, the Ld. Commissioner (Appeals), without going into the details, has passed the impugned order confirming the demands against the appellant.

4.2. Against the said order, the appellant is before me.

5. Heard the parties.

6. I find that it is a case where the appellant has executed the work of construction of Senior Secondary Schools at Panchayat Level in Bihar, which was allotted to them by BSEIDCL, which is a Government of Bihar undertaking having 99.75% holding of the State Government. Therefore, the said service is clearly exempt from the purview of Service Tax in terms of Entry Nos. 12A(a) and 12A(b) of Notification No. 25/2012-S.T. dated 20.06.2012.

7. In view of this, I hold that the appellant is not liable to pay any Service Tax. Accordingly, the impugned demand of Service Tax, along with interest, is set aside. Consequently, no penalty can be imposed.

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

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sdd