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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.75886 of 2023

(Arising out of Order-in-Original No.PR.COMMR/BBSR/ST/51/2023 dated 08.05.2026 passed by Principal Commissioner, GST & Central Excise, Bhubaneswar.)

M/s. Jagruti Welfare Organization
(Plot No.PP-46, Pandev Nagar, Road No.3, Bhubaneswar-751007, Odisha.)

...Appellant

VERSUS

Commissioner, CGST & CX, Bhubaneswar

.....Respondent

(C.R. Building, Rajaswa Vihar, Bhubaneswar-751007, Odisha.)

APPEARANCE
Ms. Shreya Mundhra, Advocate for the Appellant (s)
Ms. Suman, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)

FINAL ORDER NO. 75688/2026

DATE OF HEARING : 11.06.2026
DATE OF DECISION : 11.06.2026

R. MURALIDHAR :

The Appellant was issued Show Cause Notice on 25.04.2021 for the period 2015-16 demanding Rs.4,84,50,498/-. The Show Cause Notice invoked the extended period provisions on the ground that the alleged tax evasion was found by them on account of the Income Tax Returns filed, wherein Form 26AS showed that the Appellant had a turnover of Rs.33,41,41,361/-. The Appellant submitted before the Adjudicating authority that they are basically engaged in carrying out the sewerage. cleaning work for various Government entities which is fully exempt from payment of Service Tax. Being satisfied with the explanation given by the Appellant, the Adjudicating authority has dropped the demand of over Rs.4.82 Crores and confirmed the demand of Rs.1,63,226/-. Being aggrieved, the Appellant filed Appeal before the Tribunal. Against the dropping of the demand of Rs.4.82 Crores Revenue has not filed any Appeal.

2. The Ld.Counsel appearing on behalf of the Appellant submits that the Show Cause Notice issued on 25.04.2021 is time barred, but still at the adjudication level, they have provided all the documentary evidence to show that they are not liable to pay the Service Tax. She also submits a copy of their letter dated 30.09.2019 wherein the audited Balance Sheet for the period 2014-15 to 2017-18 along with copies of Form 26AS have been made available to the Revenue. Therefore, she submits that the Department was aware of all their transactions by 30.09.2019. Hence, no case of suppression has been made out against the Appellant. She prays that the Appeal may be allowed on account of limitation itself.

3. The Ld.AR for the Department reiterates the findings of the Adjudicating authority. She submits that wherever documentary evidence was produced by the Appellant, the Adjudicating authority has dropped the demand. Only when the Appellant was not in a position to show the documentary evidence towards Service Tax exemption, the same has been confirmed. Therefore, she justifies the confirmed demand.

4. Heard both sides.

5. I find that the Department had sought certain documents from the Appellant, which has been submitted by them on 30.09.2019. The relevant letter is reproduced below :-

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JAGRUTI

Exhibit-A

WELFARE ORGANISATION

PP - 46, Pandav Nagar, Road No. - 3, Bhubaneswar - 751 018
Regd. No. - KRD 7286 - 254 of 96-97
No. ITO (Tech.) / 809 - 108/02-03/3959 December -1-2003
E-mail : jagruti2006@rediffmail.com
Website : www.jagrutiodisha.com

Ph. : 0674-231325
Mob. : 933880121
9437032581

PAN No. : AAATJ5579K
Labour Licence No. : K-791 / C4
EPF Code : OR - 6986
GSTIN : 21AAATJ5579K

Date : 30.09.2019

To
The Superintendent,
Office of the CGST & CX,
Range-VII, Bhubaneswar.

Ref:-Your Letter No-C.No.GST(4)24/UNR-ST-3/R-VII/2019/712,Dt-18.09.2019
Ref: - Our previous mail compliance letter dated-12.09.2019

Dear Sir,
In continuance to our previous mail compliance letter dated-12.09.2019, we have intimated that, our organisation is registered under society registration act, 1860, vide-Regd. No-KRD 7286-254 of 96-97, dated-28.08.1996, and also registered as a charitable Trust/Scoeity u/s 12AA of the Income Tax Act, 1961, on dated 01.12.2013 and rendering Exempted Service of cleaning, sanitation & conservancy (solid waste Management activities) as per Sl.No-4 & **Sl.No.25(a) of Notification No.25/2012 of Service Tax.**

That, in the year 2007, a same type of service tax notice was issued from the o/o Superintendent(Service Tax), Bhubaneswar-I, regarding imposition of service tax, and the same had been successfully complied and department has clarified that, rendering cleaning services to BMC is not a commercial in nature and hence service tax is not liable. Copy of this Notice & compliance order and copies of Society Registration & 12AA registration certificates and copies of old Notice & compliance order had also been attached for your kind perusal.

Now in compliance to your above letter, dated-178.09.2019, we are submitting herewith following documents for your kind perusal.

1. Copies of Audited Balance Sheet for the F.Y-2014-2015 to 2017-18
2. Copies of 26AS statement for the F.Y-2014-2015 to 2017-18
3. Copies of Agreement (in lieu of work order) for the F.Y-2014-2015 to 2017-18
4. Copies of Society Registration & 12AA registration certificates
5. Copies of old Notice & its compliance order from the O/O Superintendent (Service Tax), Bhubaneswar-I,

Therefore we request you to be kind and sympathetic enough to consider our case favourably and obliged.

Thanking You,
Yours Faithfully

Smruti Ranjan Panda
Secretary
Jagruti Welfare Organisation

JWC
Welfare Organisation

Received
30/9/2019
Tirthabasi Sahu
Superintendent
Central GST & CX

6. This shows that the Revenue was seeking information from the Appellant which was also provided by them.

7. On the other hand, I find that the Show Cause Notice makes no mention of this letter at all. The entire case is based on their contention that the ITR details have been gathered from the Income Tax Department and demand has been quantified accordingly. Factually it is seen that out of the demand of Rs.4.84 Crores, the Appellants have effectively proved that no Service Tax is payable towards the demand of Rs.4.82 Crores.

8. This Bench in several cases has held that mere reliance of 26AS for issuing of Show Cause Notice is not legally sustainable for extended period and the demand would be hit by time bar. This Tribunal in the case of **Tabassum Enterprises vs. C, CGST & CX vide Final Order No.75452/2025 dated 19.09.2025 (Service Tax Appeal No.75037 of 2025)** has held as under :-

> *"5. I find that the present demand has been raised and confirmed on the basis of data provided by the Central Board of Direct Taxes (CBDT). It is observed that the said demand has been confirmed without the support of any independent or corroborative evidence from the Service Tax records. Such mechanical reliance on Income Tax data, without verification of the nature of receipts or proof of taxable services rendered, is impermissible in law.It is a settled legal position that mere entries in income tax returns or Form 26AS cannot, by themselves, establish liability under the Finance Act, 1994, unless corroborated by evidence demonstrating rendition of taxable service.*
>
> *5.1. In support of this view, I rely upon the decision in the case of M/s. Rishu Enterprise vs Commissioner of C.G.S.T. & Excise, Dibrugarh, in Final Order No. 75177 of 2024 dated 08.02.2024 in Service Tax Appeal No. 75509 of 2022 [CESTAT, Kolkata], wherein this Tribunalhas observed as under: -*
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> > *"8. In view of the judicial pronouncement of this Tribunal, we hold that merely on the basis of Form 26-AS issued by the*

> *Income Tax Department, the demand of Service Tax is not sustainable against the appellant.*
>
> *……………..*
>
> *11. In view of this, we hold that the impugned demand is not sustainable against the appellant on the basis of the details provided by the Income Tax Department in Form 26AS and the extended period of limitation is not invokable."*

5.2. The same view has been held by the Tribunal at Allahabad in the case of M/s.Quest Engineers & Consultant Pvt. Ltd. v. Commissioner of C.G.S.T. &C.Ex., Allahabad [2022 (58) G.S.T.L. 345 (Tri. – All.)]observing as follows: -

> *"12. …. ….We further find that Form No. 26AS is not a statutory document for determining the taxable turnover under the Service Tax provisions. We find that Form No. 26AS is maintained on cash/ receipt basis by the Income Tax Department for the purpose of tax deducted at source, etc. being the relevant data for Income Tax. Whereas under the Service Tax provisions, the service tax is chargeable on mercantile basis (accrual basis) on the service provided whether the value of such service is received or not. Thus, we find that the whole basis of show cause notice is incorrect and/or misconceived."*

5.6. Following the ratio of the decisions cited supra, I hold that the demand of service tax confirmed in the impugned order, solely relying the data received from CBDT, without adducing corroborative evidence in support, cannot be sustained. Thus, I observe that the demand confirmed in the impugned order is liable to be set aside on this ground itself."

9. The ratio of the cited case law is squarely applicable to the facts of the present case. I find that in the present case the allegation of suppression has not been corroborated by any evidence by the Revenue

against the Appellant. Therefore, following the ratio of the cited case law, I set aside the impugned order on account of time bar.

10. The Appeal stands allowed. The Appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open Court.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

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