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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 76735 of 2016

(Arising out of Order-in-Appeal No. 48/ST/B-I/2016 dated 28.06.2016 passed by the Commissioner (Appeals), Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Goodwill Associates **: Appellant**
Goodshed Road, Lanjipalli,
Berhampur – 760 008 (Odisha)

VERSUS

Commissioner of Central Excise, Customs and Service Tax, **: Respondent**
Bhubaneswar Division, Patia,
Bhubaneswar – 751 031 (Odisha)

APPEARANCE:

Shri A.K. Padhy, Fellow Chartered Accountant (FCA), for the Appellant

Shri A. Mukherjee, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76141 / 2026

DATE OF HEARING / DECISION: 02.09.2026

ORDER: [PER SHRI R. MURALIDHAR]

The appellant is registered as a service provider under the categories of 'clearing and forwarding agency service' and 'renting of immovable property service' duly registered vide Registration No. ABDPM8508RST001 dated 07.08.2006. They have been discharging Service Tax and filing their ST Returns indicating the same.

2. On the ground that the appellant has not discharged Service Tax on the entire consideration received by them, a Show Cause Notice came to be

issued on 15.09.2011 demanding Service Tax for the period from 2006-07 to 2007-08.

3. The appellant filed their reply submitting that as a clearing and forwarding agent, they were getting reimbursements from their principals, on which no Service Tax is required to be paid by them; they also took the stand that the Show Cause Notice issued on 15.09.2011, by invoking the extended period provisions, is legally not sustainable since they had been paying the requisite Service Tax and also filing their ST-3 Returns.

4. However, the lower authorities have confirmed the demand of Rs.2,00,769/-, along with interest, and imposed penalties of an equivalent amount under Section 78 of the Finance Act, 1994 and of Rs.1,000/- under Section 77 of the Finance Act, 1994.

4.1. Being aggrieved, the appellant is before the Tribunal.

5. The Ld. Consultant appearing on behalf of the appellant submits that in respect of the amount received by them towards commission, the appellant has been discharging their Service Tax liability; that the principals reimbursed various expenses incurred by them towards activities such as loading, unloading, transportation, handling, etc. Such amounts are not part of the 'consideration' received by them. He relies on the case-law of *Union of India v. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd. [2018 (10) G.S.T.L. 401 (S.C.)]* wherein it has been held that while computing the gross value, the reimbursements are required to be deducted.

5.1. He further makes a submission that the appellant had paid the Service Tax wherever the same was required to be paid and they have also filed their ST-3 Returns; that all the data towards reimbursements received are properly recorded in their Profit & Loss Account from wherein the quantification has been arrived at by the Department while issuing the present Show Cause Notice. It is his submission that these factual details show that there was no suppression on their part. It is also submitted that the issue as to whether reimbursements were liable to Service Tax payment or not, was being litigated at various levels as can be seen by the number of decisions taken by Tribunals and High Courts on the issue; finally, the issue got resolved after the Hon'ble Supreme Court interpreted it correctly in the case of *Intercontinental Consultants and Technocrats Pvt. Ltd. (supra)*. In view of these submissions, it is prayed by the Ld. Counsel for the appellant that the appeal may be allowed on account of limitation also.

6. The Ld. Authorized Representative of the Revenue reiterated the findings recorded by the lower authorities.

7. Heard both the sides.

8. After going through the factual details, we find that, admittedly, the appellant was duly registered with the Department and was also discharging Service Tax and filing their ST-3 Returns.

9. The only issue involved is as to whether the reimbursements received by the appellant are exigible to Service Tax payment or not. As correctly submitted by the Ld. Consultant for the appellant, the said issue

was being litigated regularly at various levels by both the sides, whereafter the issue came to be resolved by the Hon'ble Supreme Court vide its judgement in the case of *Union of India v. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd. [2018 (10) G.S.T.L. 401 (S.C.)].*

9.1. We also find substantial force in the appellant's submission that no case whatsoever has been made out against them towards suppression of facts on their part.

10. Considering the above factual details, we hold that the Show Cause Notice issued on 15.09.2011, by invoking the extended period provisions, is legally not sustainable.

11. Therefore, we set aside the confirmed demand on account of limitation itself and allow the appeal. The appellant shall be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd