

**IN THE CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL  
WEST ZONAL BENCH AT MUMBAI**

**APPEAL NO: ST/86743/2015**

[Arising out of Order -in-Original No: PUN-EXCUS-002-COM-003-15-16 dated 28/05/2015 passed by the Commissioner of Central Excise, Pune-II]

Yash Forklift Hiring Services

*... Appellant*

*versus*

Commissioner of Central Excise  
Pune-II

*...Respondent*

Appearance:

None for appellant

Shri, Dilip Shinde, Assistant Commissioner (AR) for respondent

**CORAM:**

**Hon'ble Dr. D.M. Misra, Member (Judicial)**

**Hon'ble C J Mathew, Member (Technical)**

**Date of hearing: 14/12/2018**

**Date of decision: 14/12/2018**

**ORDER NO: A/88251 / 2018**

Per: Dr. D. M. Misra

EXCUS -002 -COM -003 -15 -16 passed by Commissioner of Central Excise, Pune II.

3. Briefly stated the facts of the case that during the relevant period , that is , from October -2010 to March -2014 , the appellant though provided taxable services , namely , supply of tangible goods , but fail ed to discharge the Service Tax on the same. Further, since they have collected the Service Tax amount of Rs. 76,17,963/ - from the customers , but not paid it to the Government show cause notice was issued to the appellant for recovery of the said amount , alongwith interest and penalty. On adjudication, the demand was confirmed with interest and penalty.

4. Learned AR for the Revenue has submitted that there is no dispute of the fact that the appellant had provided taxable services during the period in question and collected the Service Tax from the customers providing the said service . He has further submitted that there is not dispute of the fact that the appellant had though collected the appropriate service tax from the service receivers , but not deposited the amount with the

exchequer. In support of the said fact he referred to the invoices

confirmed the Service Tax liability invoking extended period of limitation and imposed penalty on the appellant.

5. From the records, we find that the appellant had neither disputed liability of Service Tax on supply of the Tangible Goods Service nor refuted the allegations that the Service Tax amount has been collected from the customers, as is evident from the invoices enclosed with the appeal memorandum. Only reason cited for non-payment of Service Tax, though collected, was due to financial difficulties. We find that the appellant had continuously failed to discharge the Service Tax from October 2010 to March - 2014 even though they had collected the Service Tax amount from their customers. In these circumstances, we do not find merit in the plea of the appellant that extended period of limitation is not applicable and penalty is not imposable. In the result, the impugned order is upheld and the appeal is dismissed.

*(Dictated and Pronounced in Court )*

**(C J Mathew )**  
**Member (Technical)**

**(Dr. D. M. Misra )**  
**Member (Judicial)**