CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>MUMBAI</u>

REGIONAL BENCH

Service Tax Miscellaneous Application (EH) No. 85154 of 2025
(On behalf of Respondent)
Service Tax Miscellaneous Application No. 85512 of 2025
(On behalf of Respondent)
Service Tax Miscellaneous Application No. 86287 of 2025
(On behalf of Appellant)
In
Service Tax Appeal No. 85929 of 2017

(Arising out of Order-in-Original No. MUM-SVTAX-006-COM-68 to 71-16-17 dated 31.01.2017 passed by the Commissioner of Service Tax-VI, Mumbai.)

M/s. Patel Realty (India) Ltd. ....Appellant
2nd Floor, Patel Estate, Off. S.V. Road,
Jogeshwari (W), Mumbai – 400 102

VERSUS

Commissioner of CGST & ....Respondent
Central Excise, Mumbai West
Bharat Sanchar Nigam Ltd.
Administrative Building,
6th Floor, D Wing, Juhu
Tara Road, Santacruz (West),
Mumbai – 400 054

<u>AND</u>

Service Tax Miscellaneous Application No. 85090 of 2025
(On behalf of Appellant)
Service Tax Miscellaneous Application No. 86178 of 2025
(On behalf of Respondent)
In
Service Tax Appeal No. 86268 of 2017

(Arising out of Order-in-Original No. MUM-SVTAX-006-COM-68 to 71-16-17 dated 31.01.2017 passed by the Commissioner of Service Tax-VI, Mumbai.)

Commissioner of CGST & ....Appellant
Central Excise, Mumbai West
Bharat Sanchar Nigam Ltd.
Administrative Building,
6th Floor, D Wing, Juhu
Tara Road, Santacruz (West),
Mumbai – 400 054

VERSUS

M/s. Patel Realty (India) Ltd.
2nd Floor, Patel Estate, Off. S.V. Road, ...Respondent
Jogeshwari (W), Mumbai – 400 102

APPERANCE:

Shri Mohit Rawal, Advocate for the Appellant
Shri A.P.S. Parihar, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 85909-85910/2025

Date of Hearing: 15.05.2025
Date of Decision: 16.06.2025

PER: DR. SUVENDU KUMAR PATI

Miscellaneous applications bearing Nos. ST/Misc/85512/2025, ST/Misc/86287/2025, ST/EH/85154/2025 filed by both the parties for substitution of the present Respondent with jurisdictional Commissioner namely the Commissioner of CGST & Central Excise, Mumbai West Commissionerate, owing to restructuring of Commissionerate after introduction of GST, in respect of appeals filed by Assessee-Appellant bearing No. ST/85929/2017 are allowed. Other Miscellaneous application bearing No. ST/Misc/85090/ 2025 filed by present jurisdictional Commissioner to get himself substituted for the erstwhile Appellant-Commissioner is also allowed. Consequential change in the cause-title be given effect to in both the appeals.

2. In respect of miscellaneous application No. ST/Misc/86178/2025 filed by Assessee in Department appeal No. ST/86268/2017 for dismissal of the appeal filed by the Department as deemed withdrawn, as Appellant had settled the dispute under "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" has been heard at length on 15.05.2025 and the matter is taken up for order today.

3. Facts of the dispute, in a nut shell, is that concerning Works Contract Service for the period between 01.07.2012 and 31.03.2024, show-cause notice and statement of demand were issued to the Appellant, which were adjudicated and decided *vide* Order-in-Original dated 31.01.2017 in confirming demand of ₹20,52,53,792/- with interest and penalty wherein sum of ₹8,65,33,694/- was allowed also as CENVAT Credit. Appellant preferred an appeal before this forum assailing legality of the said order assailing demand of ₹11,87,20,098/- (after deduction of admissible CENVAT Credit) and parallely Respondent-Department also had filed an appeal against dropping of demand of ₹3,93,16,150/- plus other none quantifiable amount. When both the appeals are pending before this forum, Appellant had opted for the benefit of "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019", applied for extension of benefit in Form No. SVLDRS-1 covering the confirmed demand of ₹11,87,20,098/- and also including the departmental appeals amount of ₹3,93,16,150/-, that was filed against dropping of demand by the Commissioner in his Order-in-Original. Designated Committee had taken both the amounts together for consideration and determined the amount payable for settlement of dispute in terms of Section 126 of the Amended Finance Act, 2019 dealing with "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" and as Appellant's deposit during investigation was ₹9,35,39,751/-, that was more than 50% of the total disputed amount in both the appeals, a discharge certificate (Form No. SVLDRS-4) was issued by the designated committee, on the basis of which Appellant sought for withdrawal of its appeal and also for deemed withdrawal of

the appeal filed by the Respondent-Department through this Miscellaneous Application.

4. Admittedly Section 123(A)(2) clearly stipulate that in case of pendency of appeal by the declarant and by the Department, sum of the amount of the duty being disputed by both would be taken together for determination of tax dues. Objection of the Department to such Miscellaneous Application is that only, the exact amount dropped i.e. ₹3,93,16,150/- was taken into consideration while filing declaration under the scheme by the Assessee-Appellant but not the non-quantifiable other liabilities, which had no reference in the appeal memo but subsequently computed by the Respondent-Department as ₹20,52,53,792/- (inclusive of the quantified one). Learned Counsel for the Assessee-Appellant objected to such computation on the ground that it was not sought as a relief in the appeal itself. Be that as it may, going by the "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" that has added Chapter V to the Finance Act, 2019, it would clearly indicate that Section 127(2&3) authorised the Designated Committee to revise the declared amount, if in its assessment it exceeds the amount declared by the declarant and to provide opportunity to the Appellant to be heard, if he so desires, before issuing the statement indicating the amount payable by the declarant. In the instant case, neither Respondent-Department had raised any objection to such declaration that unascertained amount was not included nor the Designated Committee had preferred to make an upward revision of the disputed amount. This being so, after issue of discharge certificate in respect of declaration made for both the

appeals, Section 129 brings the matter into a conclusive stage, against which no further proceedings should continue. We are, therefore, of the considered view that both the appeals filed by Assessee-Appellant and the Departmental appeal would follow the fate as explained in CBIC Circular No. 1072/05/2019-CX dated 25.09.2019, the relevant portion which reads as follows:

> *"Section 124(1)(a) outlines the relief available in the case of one or more appeals arising out of a Show Cause Notice. Such an appeal may have been filed either by the party or by the department. Further, Section 127(6) provides for deemed withdrawal of such appeals filed by a declarant pending at a forum other than the Supreme Court or High Court. It is clarified that such deemed withdrawal will also be applicable for departmental appeals."*
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> *(Emphasis Supplied)*

As a consequence, we dismiss the Departmental appeal as deemed withdrawn and Assessee-Appellant's appeal as withdrawn, as has been settled under "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019".

5. Miscellaneous applications are accordingly allowed.

(Order pronounced in the open court on 16.06.2025)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

Prasad