CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 85568 of 2024

(Arising out of Order-in-Original No. 51-RB-COMMISSIONER-BELAPUR-2022-23. dated 30.09.2022 passed by the Commissioner of CGST & Central Excise, Belapur).

Nitin Transport Company .... **Appellant**
Shop No. 302, Plot No. C – 3, C – 27 To 30,
Kalash Sankalp CHSL Sector No. 29, Nerul,
Navi Mumbai – 400 706.

Versus

Commissioner of CGST & Central Excise, Belapur ....**Respondent**
1st Floor, C.G.O. Complex, CBD Belapur,
Navi Mumbai – 400 614.

Appearance:
Shri Mahesh Mandhana, Advocate for the Appellant
Shri C.S. Pavan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85922/2025

Date of Hearing: 10.06.2025
Date of Decision: 10.06.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. The appellants are engaged in the business of providing transport service. For provision of such services, the appellants were not registered with the Service Tax Department. During the course of investigation, on the basis of data received from the Central Board of Direct Taxes (CBDT), the Service Tax Department found that the appellants had provided the services but did not pay the service tax attributable thereon. On the basis of the allegation that the appellants did not discharge their service tax liability, proceedings were initiated against them, which culminated into the impugned order dated 30.09.2022, wherein the adjudged demands were confirmed on the appellants. Feeling aggrieved with the impugned order dated 30.09.2022, the appellants have preferred this appeal before the Tribunal.

3. Appellants have preliminary countered the impugned order on the ground that the amount reflected in the Income Tax Returns pertains to the invoice value claimed from the customers, who are mostly Body Corporates. Thus, it was contended by the appellants that in terms of sub-section (2) of Section 68 of the Finance Act, 1994, the appellants, as a Goods Transport Agency, should not be liable for payment of service tax and such liability can only be fastened on the recipient of services i.e., Body Corporates, who actually availed the services provided by the appellants. The appellants have also contended that other than Body Corporates, the appellants had catered to the requirement of individuals, for which the service tax liability will be very meager and they would be willing to deposit the same into the Government exchequer.

4. In view of the fact that the Department has not properly investigated into the matter and has confirmed the demand solely based on the Income Tax Returns, we are of the view that the matter is required to be examined afresh in line with the submissions made by the appellants that they are not liable for payment of service tax for the substantial quantum of services rendered only to body corporates in terms of Section 68(2) *ibid*. The appellants' contention that 'transport of goods by road service' falls under the Negative List and as such, no service tax is required to be paid, has also to be examined by the original authority.

5. Therefore, the impugned order is set aside and appeal is allowed by way of remand to the original authority for passing of *de novo* adjudication order in line with the observations made herein above. Needless to say, that opportunity of personal hearing should be granted to the appellants, before deciding the issue(s) afresh.

6. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha