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

WEST ZONAL BENCH, MUMBAI

Service Tax Appeal No. 86439 of 2025

[Arising out of Order-in-Appeal No. NSK/EXCUS/000/APPL/384/2024-25 dated 23.12.2024 passed by the Commissioner of CGST & Central Excise (Appeals), Nashik.]

M/s. Jupitor Associate Industries ....Appellant
Proprietor Mayuresh Deshpande,
B-2, Cosmos Housing Society,
Opp. Shri Krishna Lawns,
Near Westside, Ayodhya Nagar,
Nashik-Pune Road, Dwarka, Nashik – 422 011

VERSUS

Commissioner of CGST & Central Excise, Nashik ....Respondent
Plot No. 155, Sector – 34, NH,
Jyeshtha – Vaishakh, CIDCO,
Nashik – 422 008

<u>APPERANCE:</u>

Shri G.P. Pingle, Consultant for the Appellant
Shri S.B.P. Sinha, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 85256/2026

Date of Hearing: 29.01.2026
Date of Decision: 29.01.2026

Appeal is heard from both the sides and taken up for order.

2. Learned Counsel for the Appellant submits that as per direction given by this Bench on 02.12.2025, he has submitted Chartered Accountant certificate with copy of invoices containing details of payment made through bank challans in due discharge of Service Tax

and the recipient of the service also had furnished a letter with copy of challan exhibiting payment of 50% of the Service Tax under the Reverse Charge Mechanism at their end and all those incident happened before issue of show-cause notice, for which if Department's contention is to be accepted only ₹87,963/- amount was required to be paid which they claimed to be differential amount in respect of discharge of the said Service Tax and this being so, there was no occasion to issue a show-cause notice for the entire amount of ₹4,28,582/- though as per calculation made by the Appellant entire Service Tax due was supposed to be ₹3,11,762/- from which ₹2,23,799/- was already paid before issue of show-cause notice and on the remaining amount, Appellant is willing to pay the interest alongwith the differential duty, if penalty is waived up in view of the fact that the entire event is not related to any intention to evade payment of tax and can be treated as calculation error.

3. In response to such submissions, learned Authorised Representative points out that at para 6A of the Order-in-Appeal learned Commissioner (Appeals) had noted in his order that Appellant itself had admitted during personal hearing that they had taken 60% abatement and paid Service Tax on the balance 50% of the remaining 40% towards Works Contract Service and he ultimately concluded that as the said payments were not reflected in ST-3 return and the calculation was made on the basis of third party data namely comparison between VAT return and ST-3 return, no benefit can be granted to the Appellant in respect of the claim made by them.

4. I have taken note of the submission and gone through the appeal paper book as well as the Chartered Accountant certificate containing relevant data and payment proof. I am of the considered view that the major component of the duty was discharged much before issue of show-cause notice and therefore, in view of operation of Section 73, Sub-section 3 proviso only for the differential amount, show-cause notice should have been issued within 30 months of such payment and

the entire dispute, as noted in the order as well as reveal from the submissions made by the parties before this Bench, was that of one calculation error and nothing to do with intention to evade payment of duty, in which event only differential duty with interest and no penalty was to be payable. Appellant has volunteered to make such payment within a month of receipt of this order. Hence the order.

THE ORDER

5. The appeal is allowed subject to payment of the amount of ₹87,963/- with applicable interest, as agreed by the Appellant to be paid within a month and for the purpose of calculation of the differential duty amount as noted in the Chartered Accountant's Certificate to tally the same with the demand raised by the Respondent, the matter is remanded back to the Jurisdictional Assessing Officer-cum-Adjudicating Authority for computation purpose only, to be done within two months of receipt of this order with due notice to the parties.

(Dictated & pronounced in the open Court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad