CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH

SERVICE TAX APPEAL NO: 85495 OF 2018

[Arising out of Order-in-Appeal No: MKK/157/RGD APP/2017 dated 31.07.2017 passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigad.]

Accenture Solutions Pvt Ltd … ***Appellant***
Plant 3, Godrej & Boyce Compound, Pirojshah Nagar
LBS Marg, Vikhroli (W), Mumbai - 400079

versus

Commissioner of CGST ***…Respondent***
Navi Mumbai
16th Floor, Satra Plaza, Palm Beach Road
Sector 19D, Vashi, Navi Mumbai

APPEARANCE:

Shri Kevin Gogri, Advocate and Shri Roshan Gala, Chartered Accountant for the appellant

Shri S B P Sinha, Superintendent (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85940/2026

DATE OF HEARING:	21.07.2026
DATE OF DECISION:	21.07.2026

PER: S.K. MOHANTY

Heard both sides and examined the case records.

2. The appellants herein, are engaged in providing various taxable services, defined under the Finance Act, 1994. During the course of EA-2000 audit for the period 2007 to July 2012, the

audit wing of the Central Excise Commissionerate had observed that in respect of provision of the taxable service under the category of 'Management, Maintenance and Repair Service', the appellant did not pay any service tax. In pursuance to the audit objection raised by the Department, the appellant had voluntarily paid the service tax amount and the interest attributable to such delayed payment of service tax. Subsequent to such payment, the Department had issued show cause notice, proposing recovery of service tax amount along with interest and for imposition of penalties on the appellant. The matter arising out of the show cause notice dated 15.03.2013 was adjudicated by the original authority, wherein the proposals made therein were confirmed. In the said adjudication order, the amount of service tax along with interest deposited by the appellant were appropriated towards government revenue. On appeal against the said adjudication order, the Commissioner (Appeals) *vide* the impugned order dated 31.07.2017, has upheld confirmation of the adjudged demands made against the appellant. Feeling aggrieved with the impugned order dated 31.07.2017, the appellant has preferred this appeal before the Tribunal. The appellant has assailed the impugned order, to the extent it has upheld confirmation of the penalty amount imposed in the adjudication order.

3. In the grounds of appeal, the appellant has urged that the benefit of sub-section (3) of Section 73 of Finance Act, 1994 should be available to the appellant inasmuch as the entire amount of service tax along with interest was paid by them before the issuance of the show cause notice. Thus, it was pleaded that the matter was required to be closed for all practical purposes and there was no requirement of issuance of any show cause notice, proposing for imposition of penalty alone.

4. We are in agreement with the submissions made by the appellant that they had already deposited the impugned service

tax amount along with interest before issuance of the show cause notice. In this case, the provisions of sub-section (4) of Section 73 of Finance Act, 1994 cannot be invoked inasmuch as the appellant had not suppressed any material evidence from the Department and on payment of service tax within the stipulated time was not owing to the reason of fraud, collusion, wilful mis-statement, with the intent to evade payment of service tax. This fact is evident from the audit objection raised by the department on the basis of the books of accounts maintained by the appellant. It is not the case of revenue that the material evidence for non-payment of service tax was gathered by them from any third party sources. Thus, we are of the considered opinion that the case of the appellant does not fall under the scope and ambit of sub-section (4) of Section 73 ibid. Since, the appellant had already paid the service tax amount along with interest and nothing further is payable by them as the dues of the government, in our considered view, the case would squarely fall under the purview of sub-section (3) of Section 73 ibid, whereunder there was no requirement of issuance of any show cause notice only for the purpose of imposition of penalty. Therefore, we do not find any merits in the impugned order, insofar it has upheld confirmation of the adjudged demands on the appellant.

5. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellant.

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(M.M. PARTHIBAN)
Member (Technical)

**/as*