CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 86581 of 2023

[Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP(VNT)-169/2022-23 dated 31.01.2023 passed by the Commissioner of Central Tax (Appeals-I), Pune]

A to Z Express Goods Carriers India Pvt. Ltd. **....Appellant**
4th Floor, D C Chambers, Mumbai Pune Road,
Pimpri, Pune, Maharashtra – 411 018.

Versus

Commissioner of CGST, CE & ST, Pune-I **.... Respondent**
41-A, GST Bhavan, ICE House, Sassoon Road,
Opp. Wadia College, Pune 411 001.

APPEARANCE:

Shri Monarch M. Bhatt, Advocate for the Appellant

Shri Dinesh Nanal, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/86204/2026

Date of Hearing: 24.09.2026

Date of Decision: 24.09.2026

Per: S.K. MOHANTY

Brief facts of the case are that during the disputed period, the appellant was engaged in providing the taxable service under the category of Goods Transport Agency (GTA). For provision of such taxable service, the appellant got itself registered with the jurisdictional Service Tax authorities. Based on the ITR/TDS data received by the Service Tax authorities from the Income Tax department, an enquiry was initiated against the appellant, wherein it was observed that the appellant had taxable receipt of Rs.9,25,71,417/- for the financial year 2014-15, declaring such income towards sale of services in the I.T. returns. However, in the ST-3 returns, the appellant had reflected the figure as 'nil'. Since there is mismatch of figure reflected in the ITR/TDS vis-à-vis the ST-3 returns, the department initiated show cause proceedings against the appellant, seeking recovery of service tax on the differential amount of Rs.1,14,41,828/-. The show cause notice dated 26.06.2020 issued in this regard was adjudicated by the original authority vide order dated 05.06.2022, wherein he had dropped the demand of service tax of Rs.1,11,22,069/-, holding that the receiver of the GTA service had discharged the service tax liability either as consignee or consignor under the reverse charge mechanism. He had confirmed the service tax amount of Rs.3,19,759/- on the ground that the appellant had provided the GTA service to M/s. New Saravana Stores, and had issued the consignment note for provision of such service. Since the service receiver is not a person notified under Notification No.26/2012-ST dated 20.06.2012, the service tax demand was confirmed on the appellant. The original order was appealed against by the appellant before the learned Commissioner (Appeals), which was disposed of vide the impugned order dated 31.01.2023, wherein the benefit of cum tax was allowed, but the original order was upheld by him. Feeling aggrieved with the impugned order dated 31.01.2023, the appellant has preferred this appeal before the Tribunal.

2. Learned Advocate appearing for the appellant submitted that the show cause notice had not captured any factual data as to why the service tax demand can be confirmed on the appellant. He further submitted that the show cause notice dated 26.06.2020 is barred by limitation of time inasmuch as the same was not issued within the normal period and there is no proper substantiation with regard to involvement of the appellant with the activities of suppression of facts, withholding of information, with intent to evade payment of service tax. Learned Advocate also pleaded that the benefit of abatement provided under Notification No. 26/2012-ST dated 20.06.2012 had not been extended by the authorities below in the respective orders passed by them.

3. On the other hand, learned Authorised Representative appearing for Revenue reiterated the findings recorded in the impugned order and further submitted that since the difference in the figure reflected in the ITR/TDS vis-à-vis the ST-3 returns were subsequently submitted by the appellant, the show cause notice on acquiring of such knowledge of documentation, is not barred by limitation of time.

4. Heard both sides and examined the case records.

5. The facts of the case have been narrated by the learned Commissioner (Appeals) at paragraph 2 in the order dated 31.01.2023. It transpires from the recordings made by the learned Commissioner (Appeals) that out of the service tax demand proposed for recovery from the appellant amounting to

Rs.1,14,41,828/-, an amount of Rs.1,11,22,069/- was dropped in the original order and the balance amount of service tax of Rs.3,19,759/- was confirmed as payable by the appellant under the taxable category of GTA service. It is an admitted fact on record that the appellant had issued the "consignment note" in favour of the receiver of taxable service M/s. New Saravana Stores, who is not falling under the purview of Rule 2(1)(d)(B) of the Service Tax Rules, 1994 read with Serial No. A(ii) of the Notification No.30/2012. Thus, it is evident that the appellant is liable to pay service tax in respect of the taxable service provided to M/s. New Saravana Stores. Since the appellant did not discharge its service tax liability, the same was confirmed by the original authority in the order dated 05.06.2022. Since the appellant is registered with the Service Tax department and did not correctly capture the figures in the service tax returns, there was no scope or occasion on the part of the department to find out the actual taxable service provided by it and since based on the information submitted by the appellant subsequently, the show cause proceedings were initiated, it cannot be said that the same is barred by limitation of time. With regard to the submissions made by the appellant that the show cause notice had not captured the facts of the case properly, I find that the said submission of the appellant cannot be tenable at this juncture, inasmuch as it had clearly submitted the background facts of the case before the adjudicating authority, mentioning that it had provided the taxable service under the GTA service and that in respect of substantial amount of service tax proposed to be recovered in the show cause notice, the recipient of the services had already discharged the service tax liability either as the consignor or as consignee. Since the impugned order has specifically recorded the factual background of the case, I am of the view that the submissions made by the appellant that the show cause notice did not capture the facts properly cannot be considered as proper and justifiable. I am in agreement with the learned Advocate that the benefit of abatement in terms of Notification No. 26/2012-ST dated 20.06.2012 had not been extended by the department, while calculating the service tax demand payable by the appellant. Thus, I am of the view that only for the purpose of quantification of the service tax demand by extending the benefit of abatement, if any, the matter is required to be examined afresh by the original authority.

6. Therefore, the matter is remanded to the original authority for the limited purpose of quantification of the abatement benefit, actually extendable to the appellant, if any. If the original authority is satisfied that the benefit of abatement as per the notification is available to the appellant,

then the same should be extended and the remaining demand be confirmed on the appellant. The issue of cum-tax benefit should also be examined by the original authority during the course of *de* novo adjudication proceedings. Needless to say that a reasonable opportunity of personal hearing should be granted to the appellant before deciding the issue(s) afresh.

7. The appeal is disposed of in above terms.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

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