

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 51505 of 2025

[Arising out of Order-in-Appeal No. 32/ST/DLH/2024 dated 13.02.2024 passed by the Commissioner of CGST & Central Excise (Appeals-I), Delhi]

M/s. PPS International

...Appellant

Through its Partner/Authorized Signatory
Sh. P.K. Agarwal, Plot No.32, Ecotex-III,
Udyog Kendra, Greater Noida,
Uttar Pradesh-201306

VERSUS

**Principal Commissioner of Central Excise,
Customs, Goods and Service Tax,
Delhi East**

...Respondent

Room No.-134, Central Revenue Building,
I.P. Estate, East Delhi - 110002

APPEARANCE:

Shri Akashdeep Singh, Advocate for the Appellant
Shri Rohit Issar, Authorized Representative for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: 06.01.2026
DATE OF DECISION: **26.02.2026**

FINAL ORDER NO. 50298/2026

DR. RACHNA GUPTA

The appellant M/s. PPS International is registered for rendering various taxable services as that of Rent a Cab Scheme Operator Service, Business Auxiliary Service, Goods Transport Agency Service etc. During the audit of appellants records including the annual financial statements, balance sheet and trial balance, service tax returns, Cenvat credit registers, contracts, invoices, service tax deposit challans etc.. it was observed that the appellant has not paid service tax on the services provided to metro railways for "repair and maintenance". Department observed that

the appellant has availed exemption from paying service tax of an amount of Rs.16 lakhs on the basis of Notification No. 9/2016-ST dated 01.03.2016 which amended the Mega Notification No. 25/2012-ST dated 20.06.2012. However, it was observed that the services rendered by the appellant are not covered under the said amendment. The contract for rendering the said service was though executed before 01.03.2016 as required vide Entry No. 14 of the amended Notification No. 25/2012, however the stamp duty was not paid with respect to said contract. Since it was also the eligibility condition for availing benefit of amended Mega Exemption Notification Entry No.14 that appellant was denied to be eligible to avail the exemption. Moreover, the fact of availing exemption was not reflected in the regular self assessment return filed by the assessee. Accordingly, service tax on the aforesaid amount of Rs.16 lakhs which works out to be Rs.1,68,000/- not paid for rendering taxable service during period from October 2016 to June 2017 was proposed to be recovered along with the proportionate interest and appropriate penalties vide Show Cause Notice No. 16/2020-23 dated 20.04.2022. This proposal has been confirmed initially vide Order-in-Original No. 07/2022 dated 25.10.2022. The appeal against the said order has been rejected vide the Order-in-Appeal bearing No.69-ST/2023/649 dated 13.02.2024. Being aggrieved the appellant is before this Tribunal.

2. We have heard Shri Akashdeep Singh, learned counsel for the appellant and Shri Rohit Issar, learned Authorized Representative for the department.

3. Learned counsel for the appellant has submitted that the appellant is duly eligible for the benefit of exemption from service tax under Entry No. 14(a) of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012. The said benefit was available pre as well as post amendment of the said notification purely for the reason that the service recipient i.e. Kolkata Metro is covered under railways being part of Indian Railways. The Commissioner (Appeals) has wrongly decided the matter based on the explanation to Entry No. 14(a) of the said notification despite the fact that the case of appellant is covered under the main part of the said entry and explanation was not required to be invoked. Learned counsel has relied upon the Ministry of Railways Notification No. 2010/E&R/1500/19 dated 28.12.2010 vide which the metro rail Kolkata was declared to be a zonal railway with its Headquarters at Kolkata w.e.f. 29.12.2010. It is submitted that benefit of exemption has wrongly been denied. The demand of tax confirmed is therefore liable to be set aside.

3.1 Learned counsel, in addition, has challenged the show cause notice to have been barred by time. It is submitted that there is no cogent evidence establishing fraud, collusion, misrepresentation etc. with an intention to evade payment of tax. Extended period of five years could not have been invoked while issuing the show cause notice. It is submitted that the finding, "had the audit not been conducted, non-payment of tax would have escaped the site of the Revenue", is not good enough to invoke the extended period of limitation. The decision of this Tribunal, Mumbai Bench in the case of **Medisray Laboratories Pvt. Ltd. Vs. Commissioner of**

Customs and GST reported as 2019 (369) ELT 717 (Tri. Mum.) is relied upon. Learned counsel has also relied upon the decision in the case of **M/s. Kalya Construction Pvt. Ltd. Vs. The Commissioner of Central Excise Commissionerate, Udaipur in Service Tax Appeal No. 54385 of 2015 decided on 15.11.2023.** With these submissions, the order under challenge is prayed to set aside and the appeal is prayed to be allowed.

4. While rebutting these submissions learned Departmental Representative has submitted that there is categorical finding in the impugned order and even in the Order-in-Original that the appellant has not provided any evidence to prove that they had fulfilled the conditions of the notification i.e. the contract was registered prior 01.03.2016 and appropriate stamp duty was paid prior said date only. Also the category of works defined in Entry No. 12 of the notification/amended Entry No. 14 otherwise do not match with the work conducted by the appellant. It is mentioned that appellant was rendering repair and maintenance service to Kolkata Metro. Post 01.03.2016 in case of providing services in the nature of erection, commissioning and installation of original works, the exemption was available only to the railways monorail and metro was excluded by way of amendment. Case of the appellant does not fall under the excepted category. Hence there is no infirmity in the findings arrived at in the order under challenge when the benefit of exemption from payment of tax in terms of mega exemption notification has been denied to the appellant.

4.1 While submitting on the ground of limitation, it is mentioned that the services of repair and maintenance are the taxable services

but the appellant was not filing returns for rendering the service in question (repair and maintenance service rendered to the Kolkata metro). The service tax returns provided by the appellant described their taxable service as that of Business Auxiliary Service or Transport of Goods by Road/Goods Transport Agency Service, there is no mention of applicability of any notification in those returns. Hence there was no occasion with the department to unearth the impugned non-payment of service tax by the appellant till they conducted the audit of appellant's records. The aforementioned act of the appellant amounts to suppression of relevant facts. Hence, the department has rightly invoked the extended period of limitation in terms of proviso to Section 73(1) to finance Act, 1994. Impressing upon no infirmity in the order under challenge, the appeal is prayed to be dismissed.

5. Having heard the rival contentions and perusing the entire records, the issues to be adjudicated is:

(i) Whether the appellant was not liable to pay service tax being eligible for exemption under Mega Notification No. 25/2012 dated 20.06.2012, the Entry no. 14 thereof.

(ii) Whether the extended period was invocable while show cause notice was issued.

6. **Issue No. 1**

6.1 It is apparent fact that the said entry no. 14 has undergone amendment w.e.f. 01.03.2016. To adjudicate the aforesaid issue pre as well as post amendment entry no. 14 of Mega Exemption

Notification No.25/2012 dated 20.06.2012 need to be looked into.

It reads as follows:

"From 01.07.2012 to 29.02.2016 (pre-amendment)

"14. Services by way of construction, erection, commissioning or installation of original work pertaining to-

(a) Railway, including monorail and metro"

From 01.03.2016 to 30.06.2017 (post-amendment)

"14. Services by way of construction, erection, commissioning, or installation of original work pertaining to-

(a) Railways, excluding monorail or metro

Explanation – The services by way of construction, erection, commissioning, or installation or original works pertaining to monorail or metro, where contracts were entered into before 1st March 2016, on which appropriate Stamp Duty, was paid, shall remain exempt."

6.2 The perusal reveals that this entry exempt services in the nature of construction, erection, commissioning or installation of original work pertaining to railways. Pre amendment the exemption was also available for the said work if pertain to monorail and metro. Post amendment, monorail and metro got excluded. The bare perusal of Entry No. 14 reveals that the services in the nature of construction, erection, commissioning or installation are eligible for the exemption provided:

(i) The said work is the original work

(ii) Post 01.03.2016 the said work was provided to railways.

(iii) Such work if provided to monorail and metro post 01.03.2016 was still eligible for exemption. Provided agreements with appropriate stamp duty paid were entered into before 01.03.2016.

6.3 Reverting the facts of the present case, it is observed that the appellant is solely relying upon the Notification No. 2010/E&R/1500/2019 dated 28.12.2010 issued under Section 3 of Railways Act, 1989 to impress upon that vide the said notification Kolkata Metro has been declared to be railways w.e.f. 29.12.2010. However, it is not the only criteria to check eligibility for exemption in question. The foremost requirement for the said exemption is a nature of service rendered. The exemption, as already observed above, is available only in case the service is by way of construction, erection, commissioning or installation that too of the original work. Apparently, the nature of service rendered by the appellant is that of repair and maintenance of Kolkata metro. I have perused the letter of acceptance issue by Metro Railway Kolkata. The subject is "Repairing of 04 (four) no. SEPCOS-NG Relays in KMUK-KKVS Section). There is appellant's invoices also on record wherein the appellant has described the service rendered as repairing of said four relays.

6.4 Though the appellant has relied upon the copy of tender document which was initially not on record but at the time of argument permission was given to place the said document on record. However, the scope of service as per tender documents is also of repair and maintenance. Repair and maintenance service is not covered in the main part of Entry No. 14 of Mega Exemption Notification. The submission of the appellant that explanation to Entry No. 14 has wrongly been invoked as the appellant's case is covered under the main part of Entry No. 14 is therefore absolutely wrong submission.

6.5 It has been additionally acknowledged that the contract between Kolkata Metro and appellant is a pure service contract so works contract service is not applicable on it. Service tax at the rate of 15% is also mentioned to be payable by Metro Railway Kolkata itself. Since the appellant is proved to have been engaged in providing the taxable service of repair and maintenance that to Kolkata metro irrespective it was covered under railways or not but the activity which was eligible for the said exemption benefit i.e. a construction, erection, commissioning or installation is not rendered by the appellant. The activity of appellant i.e. repair and maintenance is not covered under the exempted entry.

6.6 It is also observed that the copy of said tender document was being asked from the appellant since the stage of issuance of show cause notice but the same was never provided by the appellant. The perusal of all the documents on record falsify appellant submissions. Appellant has absolutely fail to fulfill the eligibility criteria prescribed under Entry 14 of Mega Exemption Notification No. 25/2012 dated 20.06.2012. The case of appellant is also not covered under the explanation to the said entry.

6.7 Further it is observed that though the contract between appellant and Kolkata metro was entered into before 01.03.2016 but there was no evidence of payment of appropriate stamp duty vis-à-vis said contract which was also the eligibility criteria for availment of said exemption.

6.8 Finally it is observed to be the admitted fact that the services are being provided to Kokata metro. Metro has specifically been

excluded from the purview of exemption available to Railways. There is no ambiguity in the language of amended entry no. 14. Notification of 2010 as relied upon by the appellants despite being prior in time finds no mention in the Notification No. 9/2016 which amended the entry no. 14. Hence it is held that the said notification also does not extend any benefit to the appellant. In totality of these observations, it is held that appellant has rightly been denied the exemption benefit of mega exemption notification, amended entry no. 14 thereof.

7. **Issue No. 2**

7.1 Coming to the submission about show cause notice being barred by limitation, it is observed that the appellant is admittedly a registered service provider and has been filing the service tax returns. The copies of those returns have been perused by the department. None of those returns talks about the services as that of repair and maintenance to have been provided by the appellant to Kolkata metro. There is also no mention for availment of exemption benefit of Entry No. 14 of Notification 25 of 2012. Availment of exemption benefit without mentioning and declaring the same to the department is definite act of suppression of facts. The only motive for such act is the evasion of tax. Hence, I do not find any error to have been committed by the department when the show cause notice was issued invoking extended period of limitation. The decisions relied upon by the appellant are not applicable in the circumstances where though the service tax return has been filed but not with respect to the activity in question. In both of decisions, department was held to be a fault for not

scrutinizing the service tax return in time but in the present case the department had no opportunity despite scrutinizing to find the impugned non-payment of service tax by the appellant for want of wrong/incomplete declaration. In light of the this discussion, I hold that show cause notice is not barred by time. The above framed both the issues stands accordingly decided against the appellant and in the favour of Revenue. Resultantly, the order under challenge is hereby upheld and present appeal is ordered to be dismissed.

[Order pronounced in the open court on **26.02.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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