

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 75643 of 2023**

(Arising out of Order-in-Appeal No. 129/JSR/2023 dated 18.05.2023 passed by the Commissioner CGST & CX (Appeal) Grand Emerald (2<sup>nd</sup> & 3<sup>rd</sup> Floor), Ashok Nagar Main Road, Ranchi-834002)

**M/s. Manoj Kumar Singh,**  
S. ED. Railway Quarter No. 0/65/1  
Chakradharpur, West Singhbhum-833102

**: Appellant**

**VERSUS**

**Commissioner of CGST & Central Excise,  
Jamshedpur**  
Grand Emerald (2<sup>nd</sup> & 3<sup>rd</sup> Floor), Ashok Nagar Main Road,  
Ranchi-834002

**: Respondent**

**APPEARANCE:**

Shri Aditya Dutta, Advocate for the Appellant  
Shri S. K. Dikshit, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)  
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 75291/ 2026**

DATE OF HEARING: 23.02.2026

DATE OF PRONOUNCEMENT: 24.02.2026

**ORDER: [PER SHRI K. ANPAZHAKAN]**

The present appeal as been filed against the Order-in-Appeal No. 129/JSR/2023 dated 18.05.2023 passed by the Commissioner CGST & CX (Appeal) Grand Emerald, Ashok Nagar Main Road, Ranchi-834002, wherein the Ld. Commissioner (Appeals) has upheld the demands of service tax along with interest and penalties confirmed in the

Order-in-Original No. 11/S.Tax/Div-I/2022 dated 28.02.2022.

2. The facts of the case are that Mr. Manoj Kumar Singh, Chakradharpur, West Singhbhum-833102 (herein after referred as the appellant), have been engaged in the business of construction service, primarily of the following three kinds:-

- (a) Construction, erection, commissioning or installation of original works pertaining to Railways.
- (b) Works Contracts Service provided as sub-contractor of another contractor who is providing exempted works contract service.
- (c) Construction, erection, commissioning or installation of original works pertaining to 'a single residential unit otherwise than as part of a residential complex'.

2.1. On the basis of the data received from CBDT, the department vide their letter dated 06.02.2020 sought to verify the service tax payments by the appellant for the Financial Years 2015-16 and 2016-17. However, due to onset of COVID-19 from March, 2020 and declaration of nation-wide lockdown, the appellants were unable to collate requisite documents. The appellant submitted the documents such as Balance Sheet, Profit and Loss Account, Income Tax Returns, 26AS, copies of some agreements, contract-wise break-up of revenue to the concerned Superintendent vide email dated 13.08.2020. Subsequently, the Department issued the SCN dated 20.10.2020 based on data collected from CBDT for the Financial Year 2015-16 demanding service tax including Cess totally amounting to Rs. 24,96,404/- along with interest

and equal amount of tax as penalty under Section 78 of the Finance Act, 1994. The SCN also proposed penalty under Section 77 of the Finance Act, 1994.

2.2. The said notice was adjudicated by the Assistant Commissioner vide his Order-in-Original No. 11/S.Tax/Div-I/2022 dated 28.02.2022. Wherein he has confirmed the service tax including Cess amounting to Rs. 24,96,404/- along with interest and equal amount of tax as penalty. He further imposed penalties of Rs. 10,000/- and Rs. 49,800/- on the proprietor Manoj Kumar Singh under Section 77 and 77(1)(c)(ii) of the Finance Act, 1994.

2.3. On appeal, the Ld. Commissioner (Appeals), Ranchi vide his Order-in-Appeal No. 129/JSR/2023 dated 18.05.2023, upheld the demands of service tax along with interest and penalties confirmed in the Order-in-Original.

2.4. Being aggrieved by the aforesaid Order-in-Appeal, the appellant filed the instant appeal.

3. The appellant submits that in the impugned order, the Ld. Commissioner (Appeals), has confirmed the demands on the following observations in respect of the issues raised in the Order-in-Original.

(a) On Construction, erection, commissioning or installation of original works pertaining to SE Railways.

The work order and agreement produced to ascertain the nature of work is of 04.11.2016 which is beyond the period of dispute i.e. 2015-16. Hence in absence of proper work order/bills etc i.e. without corroborative evidence, the activities of the appellant

could not be verified as to whether they are taxable or non-taxable.

(b) On Works Contracts Service provided by us as sub-contractor of another contractor who is providing exempted works contract service.

No contract between the appellant and M/s. Manisha Pawar Construction Pvt. Ltd. could be provided by the appellant. The statement of the appellant that the work has been done by them as a sub-contractor of Manisha Pawar Construction Pvt. Ltd. could not be verified, as it was a verbal contract. The appellant only submitted contract entered between M/s. Manisha Pawar Pvt. Ltd. and S.E. Railway dated 27.06.2012. Hence in absence of documentary proof like written work order/bills, party's contention that their activity is non-taxable cannot be accepted.

(c) On Construction, erection, commissioning or installation of original works pertaining to 'a single residential unit otherwise than as part of a residential complex'.

The appellant could not provide any valid document like agreement to build residential houses. Hence in absence of any proper work order/bill etc, he could not accept the contention of the appellant that they were entitled to exemption.

3.1. In this regard, the appellant submits that the Notice issued has not calculated the service tax amounts individually on the above three components against respective service values. The service tax liability(including cess) @14.5% on the said amounts are calculated as below:-

(a) On Rs. 1,98,710/- ---- Rs. 28,812.95

(b) On Rs. 19,55,000/- --- Rs. 2,83,475/-

(c) On Rs. 1,50,62,872/- --- Rs. 21,84,116.44

Total ----- Rs. 24,96,404/-

3.2. The appellant submits that the instant SCN was issued solely on the basis of data available as per CBDT [26 AS] without adducing any corroborative evidence and without causing any independent enquiry. The appellant submits that demands raised and confirmed solely relying on the CBDT data is legally not sustainable. In support of this view, the appellant relied on the following cases:-

*M/s. Nanu Shome & Co. v Commissioner of C.G.S.T & CE [Final Order No. 75084/2026 dated 20.01.2026.*

*M/s. Tabassum Enterprises v Commissioner of CGST&CX [Final Order No. 77452/2025 dated 19.09.2025]*

*M/s. Rishu Enterprise v. Commissioner of C.G.S.T. &C.Ex., Dibrugarh [Service Tax Appeal No.75509 of 2022 – CESTAT, Kolkata].*

*M/s. Quest Engineers & Consultant Pvt. Ltd. v. Commissioner of C.G.S.T. &C.Ex., Allahabad [2022 (58) G.S.T.L. 345 (Tri-All)]*

*M/s. Gopi Chenna v. Commissioner of Central Tax, Medchal – GST [Final Order No. A/30078-30079/2024 dated 26.02.2024 in Service Tax Appeal No. 30412 of 2023 &anr. – CESTAT, Hyderabad]*

*M/s. Indian Machine Tools Manufacturers Association v. The Commissioner of C.Ex.,*

*Panchkula [Final Order No. 60403 of 2023 dated 18.09.2023 in Service Tax Appeal No. 4174 of 2012 – CESTAT, Chandigarh]*

*M/s. Forward Resources Pvt. Ltd. v. Commissioner of C.Ex. & S.T., Surat-I [2023 (69) G.S.T.L. 76 (Tri. – Ahmd.)]*

3.3. Accordingly, the appellant submits that the impugned order deserves to be set aside on this ground alone.

4. Regarding the liability on each of the three issues raised, the appellant made the following submissions:

(a) Regarding the liability of service tax on the taxable value of Rs. 1,98,710/-, the appellant submits that the said amount has been reflected in their 26AS. It was disbursed by the 'Office of The DY FA&CAO/CON' [Accounts office of South Eastern Railway]. They have been working with the South Eastern Railway authorities for several years either as a sub-contractor or as a main contractor. The nature of work so executed by them falls under the category of 'Execution of zonal works/supplies to station building, platforms and circulating area' which is in the nature of original works provided to Railways. The said services were exempted from service tax as provided under Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. The appellant enclosed a specimen contract dated 04.11.2016, though of a different period, [ Page 59 of the paper book for ready reference] which clearly shows the nature of work performed by the appellant as *Execution of zonal works/supplies to station building, platforms and circulating area'* which is exempted

from service tax being covered under Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. The said amount of Rs. 1,98,710/- disbursed to them by the South Eastern railway related to the same kind of original works provided to the railways by them. The appellant submits that the Department had not conducted any enquiry/investigation with the Railway authorities to ascertain the factual events before issuance of the SCN. Thus, the appellant submits that the demand of service tax confirmed on this count is not sustainable.

(b) Regarding the liability of service tax on the taxable value of Rs. 19,55,000/-, the appellant submits that the said amount as reflected in their 26AS was received from Manisha Power Construction Pvt. Ltd. for whom they had rendered construction service for upgradation of Divisional Hospital at Chakradharpur for South Eastern Railway as a sub-contractor. Against such services rendered by them, the said Manisha Power Construction Pvt. Ltd. had paid the said amount of Rs. 19,55,000/-. Since the work contract undertaken by Manisha Power Construction Pvt. Ltd. is exempted from service tax as per Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012, they as a subcontractor providing such service to the main contractor for South Eastern Railways is also not liable to pay any service tax as per Sl. No. 29(h) of N.F. No. 25/2012-ST dated 20.06.2012. Due to long acquaintance in such filed of work, many a times they had rendered such services to Manisha Power Construction Pvt. Ltd. as a sub-contractor on the basis of verbal agreement. The Department could have ascertained the veracity of their submission by causing enquiry at the end of Manisha Power Construction Pvt. Ltd. which the

department did not undertake. Thus, the appellant submits that the demand of service tax confirmed on this count is not sustainable.

(c) Regarding the liability of service tax on the taxable value of Rs. 1,50,62,872/-, the appellant submits that the said amount shown in their ITR for 2015-16 related to providing service of Construction of single residential units to various clients. During the period 2015-16, they had given such services to a total of 10 individual persons. In such cases, usually no written contract used to be made and contracts are verbal in nature. The consideration in monetary terms received from all such individual persons totalled to Rs.1,50,62,872/- which was duly shown by them in their IT return for the Financial Year 2015-16. They had collected declarations from each individual persons for the service rendered by them and also a photo copy of their individual Aadhar cards showing the name along with their respective addresses. The appellant submits that no service tax is payable on construction of single residential unit otherwise than part of residential complex as per Sl. No. 14(b) of N.F. No. 25/2012-ST dated 20.06.2012. Thus, the appellant submits that the services of construction of single residential units to their clients are exempted from payment of service tax. However, the Department has denied the exemption benefit observing that they could not provide any valid document like agreement to build residential houses or work order or bills. The appellant submits that to ascertain the veracity of their submission, the Department could have undertaken the exercise of verification of such factual background from each such individuals. In their defense reply to the SCN, they had mentioned

such declarations obtained from each of the individual 10 persons and those were available with the Department before adjudication of the case. But, the Ld. adjudicating authority has not considered the submissions made by them and confirmed the demands of service tax. Thus, the appellant submits that the demand of service tax confirmed on this count is not sustainable.

4.1. In view of the above submissions, the appellant prayed for setting aside the demands of service tax along with interest and penalties confirmed in the impugned order.

5. The Ld. A.R. reiterated the findings in the impugned order.

6. Heard both sides and perused the appeal documents.

7. Regarding the liability of service tax on the taxable value of Rs. 1,98,710/-, we observe that the said amount reflected in 26AS was disbursed by the 'Office of The DY FA&CAO/CON'. It is evident that the said amount was disbursed by the Accounts office of South Eastern Railway. We find that the nature of work executed by the appellant falls under the category of '*Execution of zonal works/supplies to station building, platforms and circulating area*' which is in the nature of original works provided to Railways. We find that the said services are exempted from service tax as provided under Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. The appellant enclosed a specimen contract dated 04.11.2016, though of a different period, which clearly shows the nature of work performed by them as *Execution of zonal works/supplies to station*

*building, platforms and circulating area'* which is exempted from service tax being covered under Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. Thus, we observe that the said amount of Rs. 1,98,710/- disbursed to them by the South Eastern railway is related to the same kind of original works provided to the railways. We observe that the Department had not conducted any enquiry/investigation with the Railway authorities to ascertain the factual events before issuance of the SCN. The 26AS clearly shows that the said amount was received from the Accounts office of South Eastern Railway. Thus, we hold that the appellant is eligible for the exemption as provided under Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. Accordingly, we hold that the demand of service tax confirmed on this count is not sustainable and hence we set aside the same.

8. Regarding the liability of service tax on the taxable value of Rs. 19,55,000/-, we observe that the said amount as reflected in their 26AS was received from Manisha Power Construction Pvt. Ltd. for whom the appellant had rendered construction service for upgradation of Divisional Hospital at Chakradharpur for South Eastern Railway as a sub-contractor. Against such services rendered by them, the said Manisha Power Construction Pvt. Ltd. had paid the said amount of Rs. 19,55,000/-. We observe that the work contract undertaken by Manisha Power Construction Pvt. Ltd. is exempted from service tax as per Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. A subcontractor providing such service to the main contractor for South Eastern Railways is also not liable to pay any service tax as per Sl. No. 29(h) of N.F. No. 25/2012-ST dated 20.06.2012. We

observe that the Ld. adjudicating authority has not allowed the said exemption to the appellant on the ground that the appellant has not provided any documentary proof like written work order etc in support of their contention that their activity is non-taxable. In this regard, the appellant submitted that due to long acquaintance in such filed of work, many a times they had rendered such services to Manisha Power Construction Pvt. Ltd. as a sub-contractor on the basis of verbal agreement. We observe that the department has raised the demand only on the basis of the data available in the 26 AS statement. The Department could have ascertained the veracity of the submission made by the appellant by causing enquiry at the end of Manisha Power Construction Pvt. Ltd. which the department did not undertake. We observe that the evidence submitted by the appellant clearly indicate that the said work was performed by the appellant railways as a subcontractor to Manisha Power Construction Pvt. Ltd. There is no dispute that the said service is exempted from service tax as per Sl. No. 14(a) of N.F. No. 25/2012-ST dated 20.06.2012. As a subcontractor providing such service to the main contractor for South Eastern Railways is also not liable to pay any service tax as per Sl. No. 29(h) of N.F. No. 25/2012-ST dated 20.06.2012, we hold that the appellant are eligible for the exemption and hence the demand of service tax confirmed on this count is not sustainable and hence we set aside the same.

9. Regarding the liability of service tax on the taxable value of Rs. 1,50,62,872/-, we observe that the said amount has been shown in the ITR filed by the appellant for the Financial Year 2015-16. We

observe that the said amount is related to providing service of Construction of single residential units to various clients. During the period 2015-16, the appellant had given such services to a total of 10 individual persons. The appellant submitted that in such cases, usually no written contract used to be made and contracts are verbal in nature. The appellant submitted that they had collected declarations from each individual persons for the service rendered by them and also a photo copy of their individual Aadhar cards showing the name along with their respective addresses. For ready reference one such declaration obtained by the appellant is reproduced below:

To whom it may concern

I Shaktidhar Pradhan, S/o Sri Subodh Kumar Pradhan residing at Sonua, West Singhbhum do hereby certify that Sri Manoj Kumar Singh has constructed my single dwelling unit 1806 sqft. area with his own materials as well as the labour charges situated at following address:-

At: Sonua  
Dist: West Singhbhum  
833105

On verbal agreement and he has been paid Rs. 28,81,120/- in cash on work basis in installments from time to time for the service during financial year 2015-16 to 2016-17. The year wise break up of payments to Sri Manoj Kumar Singh is given as here under.

<u>Year</u>	<u>Amount (Rs.)</u>
2015-16	18,07,920.00
2016-17	<u>10,73,200.00</u>
	<u>23,49,000.00</u>

Signature  
*Shaktidhar Pradhan*  
(Shaktidhar Pradhan)

9.1. On perusal of the declarations, we find that the appellant has established with documentary evidence that they have done the services of construction of single residential units. We observe that construction of single residential unit other than part of residential complex is exempted from payment of service tax as per Sl. No. 14(b) of N.F. No. 25/2012-ST dated 20.06.2012. However, we find that the Department has not undertaken any verification of such factual background from each such individuals. We find that the declarations obtained from each of the individual 10 persons were available with the Department before adjudication of the case. However, the Ld. adjudicating authority has not considered the submissions made by them and confirmed the demands of service tax. Thus, we hold that the appellant is eligible for the exemption as provided under Sl. No. 14(b) of N.F. No. 25/2012-ST dated 20.06.2012. Accordingly, we hold that the demand of service tax confirmed on this count in the impugned order is not sustainable and hence we set aside the same.

10. The appellant submits that the Notice issued has not calculated the service tax amounts individually on the above three components against respective service values. The service tax liability (including cess) @14.5% has been mechanically calculated on the said amounts. We have seen the work sheet from the show cause notice. For ready reference, the said table demanding service tax is produced below:

**Calculation Sheet (RUD-1)****M/s. MANOJ KUMAR SINGH, PAN-BVOPS9904B, Amount in Rs.**

F/Year	Gross Receipt as per third party information received from Income Tax	Taxable Value	S. Tax payable @14.00% of column 3	SBC @0.50% of column 3	Total of S. Tax payable
1.	2.	3.	4.	5.	6.
2015-16	Rs.17216582/-	Rs.17216582/-	Rs 24,10,321	Rs.86,083	Rs 24,96,404

10.1. From the above table, we find that there is no break of demand under separate categories of service mentioned in the Notice. Thus, we find merit in the submission of the appellant that the demand is liable to be set aside on this ground itself.

10.2. We further find that the instant SCN was issued solely on the basis of data available as per CBDT [26 AS] without adducing any corroborative evidence and without causing any independent enquiry. We find merit in the submission of the appellant that demands raised and confirmed solely relying on the basis of CBDT data is legally not sustainable. The appellant cited various decisions of the Hon'ble High courts and Tribunals in support of their contentions that the demands raised and confirmed solely on the basis of CBDT data is not sustainable. We find that the decisions cited by the appellant supports their contention that the demand confirmed solely on the basis of data available as per 26 AS, without adducing any corroborative evidence is not sustainable. Thus, we hold that the demand confirmed in the impugned order is liable to be set aside on this ground also.

11. As the demand of service tax itself is not sustainable, the question of demanding interest or imposing penalties does not arise and hence we set aside the same.

12. In the result, we set aside the impugned order and allow the appeal filed by the appellant with consequential relief, if any, as per law.

(Order Pronounced in Open court on 24.02.2026)

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

RKP