CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO. 4

Service Tax Appeal No. 52586 Of 2019
With
Service Tax Miscellaneous Application No. 51455 of 2025

[Arising out of Order-in-Original No. DLI-SVTAX,-001-COM-022-16-17 dated 31.08.2016 passed by the Commissioner of Service Tax, Audit-I, Delhi]

Shri Balaji Enterprises` **: Appellant**
815, Laxmi Deep Building, Laxmi Nagar, District Centre, New Delhi 110092

Vs

Commissioner of CGST & Central Excise, Delhi North **: Respondent**
C. R. Building, I.P. Estate,
New Delhi-110015

APPEARANCE:
Present for the Appellant : Shri Salil Arora, Advocate

Present for the Respondent: Ms. Jaya Kumari, Authorised Representative

CORAM :
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 50645/2026

Date of Hearing:09.03.2026

Date of Decision:02.04.2026

HEMAMBIKA R. PRIYA

The present appeal has been filed to agitate the Order-in-Oiginal No.DLI-SVTAX-001-COM-022-16-17 dated 31.08.2016 where in the demand of ₹64,61,530/- was confirmed along with interest and penalty. A miscellaneous application has also been filed for filing additional documents, namely agreements executed by the appellant with the medical colleges and hospitals for the said services.

2. The brief facts are that the appellant is a proprietorship entity engaged in the business of Manpower Recruitment Agency Services,

supplying nursing, orderly services to various Central and State Government, Medical Colleges and Hospitals. The department alleged that the services, including cleaning of bedsheet of patients and cleaning of tiles, etc were covered under the taxable service of Manpower Recruitment. Thereafter, a show cause notice dated 20.04.2015 was issued. Vide the impugned order, the adjudicating authority confirmed the demand against the appellant for the period 2013–14 for providing manpower supply service. Aggrieved by the impugned order, the appellant has filed this present appeal before the tribunal.

3. Ld Counsel submitted that it is not disputed that the services provided by the appellant to Government, Medical Colleges and Hospitals. The Cleaning and Housekeeping services provided by the applicant were essential and integral part of public sanitation and solid waste management. Consequently, he contended that these services are exempted under Sl no 25 of notification no. 25/2012 as amended by Notification no. 06/2014-ST dated 11.7.2014. The learned Counsel contended that for the exemption of service tax under the disputed entry, certain requirements had to be satisfied viz., that the service must be provided to Government, local authority or Government Authority and the second is the services must be any activity in relation to public health. He submitted that both these conditions were satisfied by the appellant. In this context, he relied on the decision of

Commissioner of C.Ex & ST versus **M. J Solanki**[1]. He contended that this decision was affirmed by the apex court subsequently. As regarding in position of penalty, the Ld Counsel submitted that the issue involved in this case was about interpretation of statute in general, and the appellant had a bona fide belief that they were eligible for the exemption as the service provided by them was in relation to public health and sanitation. He also contended that all the facts were known to the department, hence, no penalty was imposable.

4. Learned Authorized Representative at the outset reiterated the findings in the impugned order. He stated that the adjudicating authority had rightly denied the benefit of abatement to the appellant and correctly confirmed the demand after re-calculation along with appropriate interest and penalty. He submitted that the appellant's contention that the hospital is an integral part of the medical College was not acceptable as all medical colleges have attached hospitals, but not all hospitals are compulsory attached to medical colleges. Hence the hospital in itself was not a educational institute. He further contended that a perusal of the Service recipient as mentioned in form- 26AS for the financial year 2013–14, provided by the appellant are only Hospitals and not Medical Colleges. She also contended that Service recipients were either Government Hospitals or Charitable organisations and did not fall under the category of business entity

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1 [2025 26 Centax 121- Tri- Ahmd]

registered as Body Corporate, which was the essential criteria for getting abatement under Notification No. 30/2012-ST dated 20.06.2012. She prayed that the appeal may be dismissed.

5. We have heard the learned counsel for the appellant and the learned authorised representative for the department and perused the records. We proceed to consider the miscellaneous application and the appeal together.

6. The issue for our consideration is whether the appellant was eligible for exemption/abatement under Reverse Charge Mechanism claimed under Part I(A) (v) of the Notification no. 30/2012-ST for supply of Manpower to Government Hospitals and Charitable Organisations. However, in order to appreciate the submissions of the ld counsel, it would be appropriate to reproduce the relevant entries of the Notification No. 30/2012-ST dt. 20.06.2012 which mandates as under:-

> "The Central Government hereby notifies the following taxable services and the extent of service lax payable thereon by the person liable to pay service lax for the purposes of the said sub-section, namely:-
>
> I) The taxable services,-
>
> (A) (i), (ii), (iii), (iv)……..
>
> (v) provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose or security services or service portion in execution of works contract by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons located in the taxable territory to

a business entity registered as body corporate, located in the taxable territory:

II) The extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (1) shall be as specified in the following Table, namely:-

Sr. No.	Description of Service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
8.	In respect of services provided or agreed to be provided by way of supply of manpower for any purpose of security services	25%	75%

6.1 In the instant case, we note that the benefit of Reverse Charge mechanism under Notification No. 30/2012-ST in respect of supply of Manpower Services is guided by a rider as given under Part I(A)(v) of the same Notification. The benefit of the said Notification is available only in case the service recipient is a business entity registered as a Body Corporate.

7. From the perusal of the list of the service recipients, we note that the payments had been received from the following service recipients:

i. Aruna Asaf Ali Government Hospital
ii. Bhagwan Mahavir Hospilal

iii. Chief Medical Officer (SW Distt.)

iv CDMO North West Distt.
v. Dr. Hedgewar Arigya Santhan
vi Directorate of Health Services
vii Deen Dayal Upadhayay Hospital Hari Nagar
viii. GB Pant Hospital
ix Acharya Shri Bhikshu Govt. Hospital
x. Office of Medical Superintendent
xi Rajiv Gandhi Super Specialty Hospital
xii Shastri Park Hospital, Govt. of Delhi

7.1. The above list clearly reveals that payments were received from these entities who were the service recipientsand the activity of the Noticee is that of Manpower supply only. It is evident that the service recipients were Government Hospitals or Charitable Organizations. The said service recipients do not fall under the category of "business entity registered as a body corporate" which is essential for being eligible for abatement @ 25% under Notification No. 30/2012-ST (supra). Hence, we hold that the appellant was not eligible to avail the benefit of exemption as provided in the said Notification 30/2012, ibid. In this context, we draw support from the Supreme Court judgment in the case of Commissioner of Customs vs Dilip Kumar[2] wherein it held that exemption notification should be interpreted strictly; the burden to prove its applicability rests with the taxpayer. The relevant paragraph is reproduced hereinafter:

"52. To sum up, we answer the reference holding as under

(1) Exemption notification should be interpreted strictly: the benefit of proving applicability would be on the assessee to

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2 [AIR 2018 Supreme Court 3606]

show his case comes within the parameters of the exemption clause of the exemption notification

(2) When there is ambiguity in exemption notification, which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue……."

In the instant case, there is nothing on record to indicate that the appellant was eligible for the benefit of the Notification no. 30/2012-ST dated 20.06.2012. Hence, we find no infirmity in the impugned order.

8. We also note that the learned counsel has submitted that their services are classifiable as cleaning services. Such a contention cannot be accepted. At this juncture it is important to point out that it has been clearly recorded in the impugned order that the appellant had not disputed the classification of services. The relevant paras are reproduced hereinafter:-

"3. Further, from the records placed before me, I observe that the revenue authorities have raised the demand on the services rendered by the notice C, which are classifiable under the service, category of manpower, recruitment, and supply agency services…..

4. I find that the notice has not contested the classification of the services and their liability to pay tax under the impugned service category, that is manpower, recruitment and supply agency services. Rather, they have challenged the demand on the following issues……."

9. Once this ground was not taken at the original level, the same cannot be taken at a later stage viz., before this Tribunal. In this

context, we draw support from the Supreme court's decision in **Union of India** versus **Ibrahem Uddin & Anr**[3] where the Apex Court held that application for taking additional evidence on record at belated stage cannot be filed as a matter of right. The relevant paras are reproduced hereinafter:-

> "36.The general principle is that the Appellate Court should not travel outside the record of the lower court and cannot take any evidence in appeal. However, as an exception, Order XLI Rule 27 CPC enables the Appellate Court to take additional evidence in exceptional circumstances. The Appellate Court may permit additional evidence only and only if the conditions laid down in this rule are found to exist. The parties are not entitled, as of right, to the admission of such evidence. Thus, provision does not apply, when on the basis of evidence on record, the Appellate Court can pronounce a satisfactory judgment. The matter is entirely within the discretion of the court and is to be used sparingly. Such a discretion is only a judicial discretion circumscribed by the limitation specified in the rule itself. (Vide: K. Venkataramiah v. A. Seetharama Reddy & Ors., AIR 1963 SC 1526; The Municipal Corporation of Greater Bombay v. Lala Pancham & Ors., AIR 1965 SC 1008; Soonda Ram & Anr. v. Rameshwaralal & Anr., AIR 1975 SC 479; and Syed Abdul Khader v. Rami Reddy & Ors., AIR 1979 SC 553).
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> 37. The Appellate Court should not, ordinarily allow new evidence to be adduced in order to enable a party to raise a new point in appeal. Similarly, where a party on whom the onus of proving a certain point lies fails to discharge the onus, he is not entitled to a fresh opportunity to produce evidence, as the Court can, in such a case, pronounce judgment against him and does not require any additional evidence to enable it to pronounce judgment. (Vide: Haji Mohammed Ishaq Wd. S. K. Mohammed & Ors. v. Mohamed Iqbal and Mohamed Ali and Co., AIR 1978 SC 798).
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> 38. Under Order XLI , Rule 27 CPC, the appellate Court has the power to allow a document to be produced and a witness to be examined. But the requirement of the said Court must be limited to those cases where it found it necessary to obtain such evidence for enabling it to pronounce judgment. This provision does not entitle the appellate Court to let in fresh evidence at the appellate stage where even without such evidence it can pronounce judgment in a case. It does not entitle the appellate Court

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3 2012 & SCC 148

> to let in fresh evidence only for the purpose of pronouncing judgment in a particular way. In other words, it is only for removing a lacuna in the evidence that the appellate Court is empowered to admit additional evidence. [Vide: Lala Pancham & Ors. (supra)].
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> 39. It is not the business of the Appellate Court to supplement the evidence adduced by one party or the other in the lower Court. Hence, in the absence of satisfactory reasons for the non- production of the evidence in the trial court, additional evidence should not be admitted in appeal as a party guilty of remissness in the lower court is not entitled to the indulgence of being allowed to give further evidence under this rule. So a party who had ample opportunity to produce certain evidence in the lower court but failed to do so or elected not to do so, cannot have it admitted in appeal. (Vide: State of U.P. v. Manbodhan Lal Srivastava, AIR 1957 SC 912; and S. Rajagopal v. C.M. Armugam & Ors., AIR 1969 SC 101).
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> 40. The inadvertence of the party or his inability to understand the legal issues involved or the wrong advice of a pleader or the negligence of a pleader or that the party did not realise the importance of a document does not constitute a "substantial cause" within the meaning of this rule. The mere fact that certain evidence is important, is not in itself a sufficient ground for admitting that evidence in appeal."

10. In view of the above discussions, we find no infirmity and uphold the impugned order. Consequently, the Misc Application No. 51455 of 2025 and the appeal stands dismissed.

(Order pronounced in the open Court on 02.04.2026)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.