

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH**

**SERVICE TAX MISCELLANEOUS APPLICATION NO.85699 OF
2026
IN
SERVICE TAX APPEAL No.86992 OF 2024**

[Arising out of Order-in-Appeal No. CSM/679/RDG-APP/2023-24 dated 29.02.2024 passed by the Commissioner of CGST and Central Excise (Appeals), Raigad]

SALINI NDT SERVICES P LTD

609, J.K.Chambers, Vashi, Navi Mumbai-400703

Appellant

Vs.

**COMMISSIONER OF CGST AND CENTRAL
EXCISE-BELAPUR**

First Floor, CGO Complex, CBD Belapur-400614

Respondent

Appearance:

Present for the Appellant: Shri Ashwini Kumar, Advocate

Present for the Respondent: Shri Dhananjay Dahiwalé (AR)

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO.85653/2026

Date of Hearing: 16.04.2026

Date of Decision: 12.05.2026

PER: AJAY SHARMA

This appeal has been filed by the appellant challenging the impugned Order-in-Appeal dated 29.02.2024 passed by the Commissioner, CGST & C.EX, Raigad Appeals whereby the learned Commissioner rejected the appeal filed by the appeal while confirming the Order-in-Original dated 11.05.2023.

2. The genesis of the dispute lies in the data, namely, the Income Tax Return (ITR) for the Financial Year 2016-17, received by the department from the Income Tax Department. Acting on the said information, the Revenue called upon the appellant to furnish the

financial records including Form 26AS etc for the period 2016-17 to 2017-18 (upto June). The appellant, however, failed to submit the requisite documents. In the absence of documentary evidence, the Adjudicating Authority proceeded on the basis of best judgment assessment and issued a Show Cause Notice dated 11.10.2021 under Section 73(1) of the Finance Act, 1994, invoking the extended period of limitation under the proviso thereto, proposing recovery of short payment of service tax amounting to Rs. 25,42,189/- (Rupees Twenty-Five Lakhs Forty-Two Thousand One Hundred and Eighty-Nine only), along with interest and applicable penalties under the Finance Act, 1994.

3. During the course of adjudication proceedings, the appellant filed a reconciliation statement comparing figures reflected in the ITR and the Service Tax Return (STR) for the Financial Year 2016-17, and also produced certain challans evidencing cash payment of service tax amounting to Rs. 6,85,494/-. Additionally, the appellant claimed that it rendered services to Special Economic Zone (SEZ) units, which are exempted from service tax in terms of Notification No. 12/2013-ST dated 01.07.2013. However, no documentary evidence stated to have been produced before the Adjudicating Authority in support of this exemption claim.

4. After granting personal hearings to the appellant, the Adjudicating Authority passed the Order-in-Original dated 11.05.2023, whereby the demand was partially confirmed. The Adjudicating Authority dropped the demand to the extent of Rs. 10,92,814/- and confirmed the balance demand of Rs. 14,49,375/-

under Section 73(1) of the Finance Act, 1994, along with interest and penalty.

5. Aggrieved, the appellant preferred a first appeal before the Ld. Commissioner (Appeals). The said authority, vide the impugned order dated 29.02.2024, dismissed the appeal and affirmed the demand confirmed by the Adjudicating Authority.

6. While rejecting the appeal, the Ld. Commissioner (Appeals) observed that the appellant had failed to file any grounds of appeal along with Form ST-4. Form ST-4 is the prescribed form for filing appeals under the statute. The impugned order also records that: *'the appellant has not submitted balance sheet, profit & loss accounts, Form 26AS, Sales Registers, Sales Invoices for the impugned period. Without verification of the said documents the amount claimed as SEZ sale cannot be reconciled. Further they have not submitted CA certified copy of Reconciliation Statement. Hence at this stage I cannot grant the benefit of exemption with respect to SEZ sale in terms of Notification No.12/2013-ST dated 01.07.2013.'*[emphasis supplied].

7. The Ld. counsel for the appellant submitted that all relevant documents, including documentary evidence in support of the claim of exemption on account of SEZ services, were duly furnished before the learned Commissioner (Appeals). It was contended that the said authority failed to consider the material so placed on record, and the dismissal of the appeal was therefore unsustainable. The learned Authorised Representative for the Revenue supported the impugned order and submitted that the appellant had not complied with the

prescribed procedural requirements for filing an appeal before the Commissioner (Appeals), and accordingly, no error could be attributed to the first appellate authority.

8. I have heard the learned counsel for the appellant and learned Authorised Representative for the Revenue, and have carefully perused the records of the case, including the synopsis and written submissions filed, as well as the case laws placed on record.

9. At the threshold, I consider it necessary to address a fundamental procedural deficiency that goes to the root of the present appeal, namely, the improper filing of the memorandum of appeal before the first appellate authority.

10. The statute prescribes Form ST-4 as the mandatory format for filing an appeal before the Commissioner (Appeals) under the Finance Act, 1994. Serial No. 7 of Form ST-4 requires the appellant to set out the *Relief Claimed in appeal* and after that the '*STATEMENT OF FACTS-GROUNDS OF APPEAL*' are required to be mentioned. Though the said Form ST-4 contained a Note also at the end of the form and the said Note has also been quoted by the appellant in the said 1st appeal which reads as '*Note:-The form of appeal including the statement of facts and the grounds of appeal shall be filed in duplicate and shall be accompanied by a copy of the decision or order appealed against.*' [emphasis supplied].

11. A perusal of the memorandum of appeal filed before the Ld. Commissioner (Appeals) reveals that while the appellant filled in the relief claimed at Serial No. 7 of Form ST-4, the prescribed Statement of Facts and the Grounds of Appeal, which constitute the substantive pleadings challenging the Order-in-Original, were conspicuously

absent from the said memorandum. This omission was also duly noted by the learned Commissioner (Appeals) in the impugned order, where it was recorded that '*I do not find any ground of appeal submitted with the appeal memorandum.*'

12. It is a well-settled principle of adjudicatory proceedings that when a statute prescribes a specific form or manner for the exercise of a right, the prescribed procedure must be strictly adhered to. The filing of grounds of appeal is not a mere procedural formality, it serves the substantive purpose of apprising the appellate authority of the specific findings in the order under challenge that are assailed, the legal or factual grounds on which the challenge is founded, and the precise relief sought. In the absence of such grounds, the appellate authority is placed in a position where it is unable to meaningfully examine or adjudicate upon the merits of the challenge. Accordingly, I do not find any error in the impugned order given the deficient state of the pleadings placed before the said authority.

13. I have noted the submission of the learned counsel for the appellant that all relevant documents, including evidence in support of the SEZ exemption claim, were placed before the learned Commissioner (Appeals) during the hearing, but were not taken into account. Be that as it may, I am of the view that the substantive merits of the appeal ought to be examined by the first appellate authority on the basis of properly framed pleadings in the prescribed form, accompanied by the relevant documentary evidence. In the interest of justice, and in order to afford the appellant a full and fair opportunity to have its case decided on merits, I consider it

appropriate to remand the matter to the learned Commissioner (Appeals) for a fresh decision.

14. In view of the foregoing findings, I am setting aside the impugned Order-in-Appeal dated 29.02.2024 and restoring the matter to the file of the learned Commissioner (Appeals). The appellant is directed to file the statement of facts and grounds of appeals to their Memorandum of Appeal i.e. Form ST-4 and all documentary evidences the appellant wish to rely upon in support of its submission in the appeal before the learned Commissioner.

15. The appellant shall file the aforesaid before the Ld. Commissioner (Appeals) within a period of four weeks from the date of this order. Upon receipt thereof, the learned Commissioner (Appeals) shall afford due opportunity of hearing to both sides and thereafter pass a speaking and reasoned order on merits, in accordance with law, without being influenced by any observations made in the impugned order.

16. The appeal is therefore allowed by way of remand and pending miscellaneous application is disposed of accordingly.

(Pronounced in open Court on 12.05.2026)

(Ajay Sharma)
Member (Judicial)

