

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH - COURT NO. III**

Service Tax Appeal No.50403 of 2021

[Arising out of Order-in-Appeal No.464(SM)ST/JPR/2020 dated 30.09.2020 passed by the Commissioner (Appeals), Central Excise and Central Goods and Service Tax, Jaipur].

M/s. Chuttan Lal Agarwal,
501, Chobiyon Ki Gali, Hanuman Ka Rasta,
Tripolia Bazar, Jaipur (Rajasthan)302 002.

....APPELLANT

Versus

Commissioner of CGST and Central Excise,
NCR Building, Statue Circle,
Jaipur, Rajasthan-302 005.

.....RESPONDENT

Appearance:

Present for the Appellant : Ms. J. Kainaat, Advocate
Present for the Respondent: Shri Shashank Yadav, Authorised
Representative.

CORAM:

**HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

Final Order No. 51027/2026

Date of Hearing:22.05.2026

Date of Decision:03.06.2026

BINU TAMTA:

1. The appellant has assailed the order-in-appeal¹ confirming the demand of service tax under "Cargo Handling Services" along with interest and penalty for the period 2013-14 and 2014-15.

2. The appellant is a sole proprietor engaged in the business of transportation and distribution of newspaper printed by Dainik Bhaskar

¹ No. 464(SM)ST/JPR/2020 dated 30.09.2020

Limited² from its printing press to various centre/places located at different points. The appellant and DBL had entered into an agreement for providing the services including binding, counting, making bundles, packaging, loading, unloading and other things related to the distribution of newspapers, magazines, supplements, etc.

3. On scrutiny of the third-party information received from Income Tax Department, it has been noticed that TDS on an amount of Rs.77,39,000/- of Income Tax Act was deducted during the period 2013-14 and 2014-15. Show cause notice dated 17.10.2018 was issued demanding service tax amounting to Rs.9,56,540/- along with interest and penalties alleging that the 'services provided by the appellant are not covered in the negative list of services specified in Section 66D of Finance Act, 1994. The appellant failed to obtain mandatory service tax registration nor filed ST-3 Returns and, therefore, did not discharge service tax liability. The appellant's services are taxable under Section 66B(44). Both the Adjudicating Authority and the Appellate Authority confirmed the demands along with interest and penalties denying the benefit of exemption notification claimed by the appellant on the ground that the activity carried out by the appellant is not the transportation of the newspapers, which is exempt under Entry No.21(f) of Notification No.25/2012-ST dated 20.06.2012 since the same is contrary to their own version that they are not providing GTA services. Referring to Clause 21 of the Notification, it was observed that it specifically applies to GTA service and not to 'Cargo Handling Service'. Hence, the present appeal has been filed.

² DBL

4. Heard Ms. J. Kainaat, learned Counsel for the appellant and Shri Shashank Yadav, learned Authorised Representative for the Department and perused the case records.

5. Ms. J. Kainaat, learned Counsel for the appellant has argued that the impugned order is unsustainable as they travel beyond the scope of the show cause notice and confirmed the demand under the category of 'Cargo Handling Service' merely because the agreement refers to loading, unloading and packing. She has challenged that the demand has been raised only on the basis of third party income tax information without appreciating the true nature of the activity. She has also submitted that the services provided during the impugned period were related to Newspaper Supply Services to the service recipient, and the activity of supply of newspapers and magazines by way of transportation was exempted from payment of service tax in terms of Mega Exemption Notification No.25/2012-ST dated 20.06.2012 S.No.21(f), and, therefore, no service tax was charged in the bills nor received from the service recipient. It was further stated that the appellant had acted solely as a service provider for newspaper supply and, being covered under the above-said exemption, there was no liability to pay service tax, interest or penalty. Along with it, challenge has been made to the levy of interest, imposition of penalty and invocation of extended period of limitation.

6. Shri Shashank Yadav, learned Authorised Representative for the Department reiterated the findings of the authorities below. He submitted that the impugned order has rightly held that the appellant was providing 'Cargo Handling Service' which included packing together

with transportation of newspapers with loading and unloading of goods to DBL and, therefore, the activity falls under taxable service in terms of Section 65B(44) of the Act. Learned Authorised Representative has contended that the services provided by the appellant does not fall under exemption notification as the same is applicable to the GTA services and the appellant has themselves admitted that they were not GTA service provider. Since the appellant was neither registered nor filed ST-3 Returns, it is a case of suppression of facts and hence, the extended period has been rightly invoked.

7. Though the learned Counsel for the appellant has raised several contentions, however, she emphasized on the provisions of Section 66D(p) of the Act to say that the services in question would fall under the Negative List of services. From the order of the Adjudicating Authority, we find that such a contention was raised that their work is exempted under Section 66D of the Act, however, the authorities below have not considered the same in detail and merely considering the provisions of the Mega Exemption Notification held that since the services do not fall therein the appellant is liable to pay service tax. The provisions of Section 66D(p) reads as under:-

“Section 66D(p) services by way of transportation of goods –

(i) by road except the services of –

(A)a goods transportation agency; or

(B)a courier agency;

8. Considering the agreement between the parties, it is clear that the primary objective was transportation and distribution of newspapers

from the Printing Press to the designated centres and the activities of loading and unloading were only incidental and ancillary to the transportation using his own vehicle and also by hiring vehicles. The said fact is evident from the ITRs filed by the appellant, wherein depreciation on the Maruti Van is reflected under fixed assets and expenses towards vehicle hiring charges are also shown. Thus, the present case is a case of composite contract involving transportation with other incidental activities such as loading and unloading of newspapers. The impugned order in so far as it holds that the services rendered by the appellant are covered under "Cargo Handling Services" is unsustainable.

9. Since we have held that the transportation and supply of newspapers from Printing Press of DBL to various places falls under Section 66D(p) of the Act, the appellant is not liable to pay service tax and, therefore, it is not necessary to consider the other contentions raised by the appellant.

10. We, therefore, set aside the impugned order and allow the present appeal.

[Order pronounced on 3rd June, 2026.]

**(BINU TAMTA)
MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)
MEMBER (TECHNICAL)**

Ckp.