

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.41959 of 2015

(Arising out of Order-in-Original No.03/2015 (ST-Commr.) dated 30.04.2015 passed by Commissioner of Central Excise, Salem)

Commissioner of GST & Central Excise

No.1, Foulk's Compound,
Anaimedu,
Salem-636 001.

.... Appellant

VERSUS

M/s. R.R. Thulasi Builders (I) Pvt. Ltd.

Sakthi Mahal,
No.63, Perundurai Road,
Erode-638 011.

... Respondent

APPEARANCE:

Mr. N. Satyanarayana, Authorized Representative for the Appellant
Ms. Radhika Chandrashekar, Advocate for the Respondent

CORAM:

**HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)**

FINAL ORDER No.40705/2026

**DATE OF HEARING: 17.02.2026
DATE OF DECISION :08.06.2026**

Per: Shri Ajayan T.V.

Revenue has assailed the Order- in-Original No.03/2015 dated 30.04.2015 to the extent the Adjudicating Authority has dropped the demand of Service tax pertaining to construction service provided to the extent the demand has been dropped in so far as Periyar Maniammai University and Periyar Teaching Training Institute, are concerned, treating them as Government Educational Institutions.

2. The relevant facts are that the appellant is a registered service provider of Works Contract Service and are paying service tax for the service charges received by them after deducting the amount received from exempted services like Road works, pipe line work etc., but they had not discharged the applicable service tax for the construction services

rendered to Educational Institutions. In response to an enquiry initiated, the appellant replied contending that construction to Educational Institutions are exempted as per Circular No. 80/10/2004 dt. 11.12.2013 and hence Service Tax was not paid on that portion of amount; that most of their customers are public charitable trusts having Section 12A registration under Income Tax Act. While submitting the records and relevant particulars for the period from 01.10.2008 to 30.06.2012 the appellant also stated that they are discharging Service Tax for educational institution category from 1.7.2012. On scrutiny of the records, it was noticed that the Service provider during the period from 01.10.2008 to 30.06.2012 had filed ST3 Returns without including the value of service charges received from the educational institutions and also not discharged the applicable service tax for the amounts received and hence a Show Cause Notice vide SCN Sl. No. 40/2014-ST(Commissioner) dated 22.04.2014 was issued to the appellant wherein they were required to Show Cause to the Commissioner of Central Excise, No. 1 Foulk's Compound, Anai Road, Salem 636 001, as to why:-

- i. the extended time limit for recovery of Service Tax under Proviso to section 73(1) of the Finance Act, 1994 should not be invoked;
 - ii. an amount of Rs. 21,25,06,946/- (Service Tax-Rs.20,63,17423/- primary Education Cess. Rs.41,26,348/- and Secondary & Higher Education Cess Rs.20,63,174/-) being the service tax not paid by them should not be demanded from them under the proviso to Section 73(1) of the Finance Act, 1994;
 - iii. interest at the appropriate rates should not be demanded from them under Section 75 above amount ibid on the of service tax amount demanded supra;
 - iv. Penalty should not be imposed on them under Sections 76, 77(2) and 78 of the Finance Act, 1994 for contravention of the Sections of the Finance Act, 1994.
3. After due process of law, the Adjudicating Authority vide the impugned order after holding that the construction for private Educational Institutions whether they are run by charitable trust or not, are taxable

whereas construction for Government Educational Institutions are not taxable, went on to confirm the demand to the tune of Rs.19,76,70,368/- for the taxable services rendered under the category of works contract service during the disputed period and dropped the demand of Rs.1,48,36,578/- being the service tax amount pertaining to construction service provided to Government Educational Institutions by the appellant. The Revenue is in appeal to the extent the demand has been dropped in so far as Periyar Maniammai University and Periyar Teaching Training Institute, are concerned.

4. Ms. Radhika Chandrashekar, Ld. Advocate, appearing on behalf of the Respondent recapitulating the events narrated supra and contended that the Respondent had earlier preferred an appeal before this Tribunal against the findings of the Adjudicating Authority in the impugned order holding that the construction for private Educational Institutions whether they are run by charitable trust or not, are taxable and to the extent the demand has been confirmed on this count, including the invocation of extended period and penalties imposed. It is submitted that the appeal filed by the Respondent was allowed by this Hon'ble Tribunal vide Final Order No.40703/2014 dated 13.06.2024 setting aside the impugned order confirming the demand of service tax under works contract services with respect to private educational institutions, on the ground that the demand of service tax under 'Works Contract for the construction of buildings for educational institutions is not sustainable and on the ground that in the absence of any positive act of suppression there cannot be invocation of extended period of limitation.
5. Ld. Counsel further contends that the instant appeal filed by the department is against the deletion of demand of service tax with respect to the construction service rendered for Government Educational Institutions and the grounds urged in the Department's appeal is that the Periyar Maniammai University' and 'Periyar Teacher Training Institute' is only a private institution given the status of a 'Deemed to be University' in terms of Section 3 of the University Grants Commission Act and not established by the Central or State Government under Section 2 of the UGC Act. It is the contention of the

Ld. Counsel that since the appeal with respect to confirmation of demand with respect to the construction services provided to private educational institutions, preferred by the Appellant itself was allowed in the Appellant's favour, vide Final Order No.40703/2014 dated 13.06.2024 on the ground that the demand of service tax under 'Works Contract for the construction of buildings for educational institutions is not sustainable and that in the absence of any positive act of suppression there cannot be invocation of extended period of limitation; therefore the contention of the department that the 'Periyar Maniammai University' and 'Periyar Teacher Training Institute' is not a Government Educational Institutions is not sustainable in view of the order passed by this Tribunal allowing the appeal.

6. Shri. N. Satyanarayana, Ld. Authorised Representative appearing for the Appellant reiterated the grounds of appeal and contended that these institutions are private educational institutions and merit classification along with other private educational institutions and as such they cannot be considered to be non-commercial in nature and so the order dropping the demand of service tax and consequent reliefs is not correct.
7. We have the rival submissions and perused the material available on record.
8. The singular issue that arises for our consideration is whether the Department's contention that the works contract services that the appellant provided to Periyar Maniammai University and Periyar Teacher Training Institute too merit classification along with other private educational institutions to whom the appellant had rendered works contract service and that therefore such services rendered by the appellant are liable to service tax, is tenable.
9. We find that this Tribunal, vide **Final Order No.40703/2014 dated 13.06.2024, in the case of M/s. R.R. Thulasi Builders (I) P Ltd v The Commissioner of CGST & Central Excise, Salem** had, in an appeal preferred by the Appellant against the demand confirmed under

works contract service provided to private educational institutions for the disputed period vide the very same impugned order, allowed the appeal in the appellant's favour. The said Final Order has been rendered after noticing the Department's Circular No.80/10/2004-ST which had clarified that the constructions which are for the use of organizations or institutions being established solely for educational, religious, charitable, health, sanitation, or philanthropic purposes and not for the purposes of profit are not taxable being non-commercial in nature and that the Department does not have a case that these institutions constructed by the appellant are not used principally or solely for providing education. It was held that when the circular issued by the Board specifically clarified that construction service provided by construction of educational institutions are exempted from levy of service tax, no reason is found to hold that these constructions are commercial in nature. The Tribunal had also taken cognizance of a letter dated 19-06-2013 written by the Coimbatore Builders and Contractors Association to the Chief Commissioner of Central Excise, Coimbatore and the reply of the said authority thereto. After noticing the decisions of the Hon'ble High Court of Karnataka in the case of ***CCE (Appeals) v KVR Construction, 2012 (26) STR 195 (Kar)***, and also the decisions of this Tribunal in ***KMV Projects Ltd v CCE & ST, Hyderabad, 2019 (27) GSTL 388 (Tri-Hyd), Final Order No.A/11309-11310/2023 in the case of Gujarat Adani Institute of Medical Sciences v CCE & ST, Rajkot*** and ***Final Order No. 40536/2024 dated 08.05.2024 in the case of Vijayadeepa Constructions Private Ltd v CGST & Central Excise, Coimbatore***, it was held as under:

"17. In view of the above discussions, we find that the demand of service tax under WCS for the disputed period for construction of educational institutions cannot sustain. The issue on merits is answered in favour of the appellant and against the Revenue.

18. The Ld. Counsel has argued on the ground of limitation. From the records, it is seen that the entire figures and details for raising the demand is taken from the accounts maintained by the appellant. Further the appellant has discharged appropriate service tax in regard to all other construction services. The appellant had not discharged service tax for constructions of educational institutions on a bonafide belief and also taking

note of the clarifications issued by the Board as per circular dt. 17.09.2004. There is no positive act of suppression established by the department against the appellant. The issue is also interpretational in nature as there have been several litigations. The Board has also come forward to clarify the nature of construction services when provided to educational institutions. In such circumstances, there are no grounds for invoking the extended period and we hold the demand is time-barred. The issue of limitation is answered in favour of the appellant and against the Revenue.

19. In the result, the impugned order is set aside. The appeal is allowed with consequential relief, if any."

10. Admittedly, it stands conceded that the institution Periar Maniammai University has been granted a 'Deemed to be University' status in terms of Section 3 of the University Grants Commission Act and Periyar Teacher Training Institute is a Private Institution for teacher training. Thus, in the instant Appeal too, no case has been made out that these institutions are not used principally or solely for providing education. Rather, the substance of the grievance is that the Adjudicating Authority ought to have confirmed the demands on these institutions also as private Educational Institutions to whom the appellant had rendered works contract service and in respect of which the Adjudicating Authority had confirmed the demands vide the impugned order, and that the Adjudicating Authority has erred in dropping the demand of service tax in respect of these institutions. When this Tribunal by the aforesaid order in the appellant's own case has found that the service tax demand on the works contract services rendered by the appellant for construction of private educational institutions are untenable, given that the present appeal is solely to treat these institutions too as private institutions, *a fortiori*, the Department's appeal can only be rejected. We are also fortified in our view by the decision of a coordinate bench of this Tribunal in ***M/s. Sabari Builders v. The Commissioner of GST & CE, Coimbatore, 2025 (8) TMI 88-CESTAT CHENNAI***, wherein it has been held that the demand of service tax on the works contract services rendered by the appellant therein to educational institutions upto 01-07-2012 cannot sustain.

11. In view of our aforesaid discussions, we find the appeal preferred by the Department to be devoid of merits.

Appeal is rejected.

(Order pronounced in the open court on 08.06.2026)

(AJAYAN T.V.)
Member(Judicial)

(M. AJIT KUMAR)
Member(Technical)