

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

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.41810 of 2014

(Arising out of Order-in-Original No.MAD-CEX-000-COM-003-2014 dated 26.03.2014 passed by Commissioner of Central Excise, Madurai)

M/s. Pal Promoters Pvt. Ltd.

No.4/158, Lake Area,
Melur Road, Uthankudi,
Madurai-625 107.

.... Appellant

VERSUS

Commissioner of GST & Central Excise

Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai-625 002.

... Respondent

AND

Service Tax Appeal No.40300 of 2015

(Arising out of Order-in-appeal No.096/2014 dated 16.09.2014 passed by Commissioner of Central Excise (Appeals), Madurai)

P. Panneerselvam

No.4/141, Lake Area,
Melur Road, Uthankudi,
Madurai-625 107.

.... Appellant

VERSUS

Commissioner of GST & Central Excise

Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai-625 002.

... Respondent

APPEARANCE:

Shri S. Sivalinga Kesavan, Advocate for the Appellant
Ms. O.M. Reena, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER Nos.40739-40740/2026

DATE OF HEARING: 20.02.2026
DATE OF DECISION: 18.06.2026

Per: Shri Ajayan T.V.

These two appeals being interconnected and involving common issues were heard together and are being decided by this common order.

2. The appeal No. ST/41810/2014, has been filed by M/s. Pal Promoters Private Limited, the appellant (hereinafter also called PPPL), contesting the Order in Original No. MAD-CEX-000-COM-003-2014 dated 26.03.2014 passed by Commissioner of Central Excise, Madurai to the extent it confirms the demand of service tax on the construction activities undertaken along with interest and imposes penalties.
3. The relevant facts of this appeal are that pursuant to an investigation which revealed that the appellant had rendered civil construction works, i.e., construction of residential complexes in the Tsunami affected areas for Tsunami District Implementation Unit, Pudukkottai (TDIU) and for Peoples Development Association (PDA), Tamil Nadu Police Housing Corporation (TNHPCL), Harley Ram Nursing Home as well as for Madurai Municipal Corporation, a show cause notice dated 16.10.2012 was issued demanding service tax for the period from 01.04.2007 to 31.03.2012, invoking the extended period of limitation, and alleging that the appellant had provided "Commercial or Industrial Construction Service" as per Section 65 (25)(b) of the Finance Act, 1994 (Act) and "Construction of Complex service" as per Section 65(91a) of the Act. After due process of law, the Adjudicating Authority confirmed the demand of service tax of Rs.1,40,58,905/- along with applicable interest and imposed equivalent penalty under Section 78 of the Act and a penalty of Rs.10,000/- under both Section 77(1)(a), and Section 77(2) of the Act. Hence this Appeal.
4. The appeal No. ST/40300/2015 has been filed by Shri. P. Panneerselvam, the Managing Director of Pal Promoters Private Limited, against the Order-In-Appeal No.MAD-CEX-000-096-14 dated 16.09.2014 passed by the Commissioner (Appeals), Madurai rejecting

the appeal preferred against the Order in Original No.MAD-CEX-000-JTC-038-13 dated 30.09.2013 of the adjudicating authority.

5. The brief facts of this appeal, are during investigation into the activities of Pal Promoters Private Limited, the appellant, in his personal account was found to have undertaken construction of commercial building to Devadoss Multi Specialty Hospital, Madurai, Residential complexes to World Vision India Limited and provided renting of immovable property service to PAL Promoters Private Limited. Hence a show cause notice dated 19.10.2012 alleging that the appellant had provided taxable services during the period from 01.04.2007 to 31.03.2012 was issued and the Joint Commissioner of Central Excise, Madurai Commissionerate after due process of law vide the aforementioned Order-In-Original dated 30.09.2013 confirmed a demand of Rs.5,42,397/- for the period from 01.04.2007 to 31.03.2012, invoking the extended period of limitation and imposed equivalent penalty under Section 78 of the Act and a penalty of Rs.10,000/- under both Section 77(1)(b), and Section 77(2) of the Act. Aggrieved, the appellant preferred an appeal before the aforementioned Appellate Authority who has however rejected the appeal. Hence this appeal.

6. Shri. Sivalinga Kesavan, Ld. Advocate appearing for both the appellants argued with respect to the activities of PPPL that TNPHCL is a Government Organization and the construction was for the personal use of the police personnel and would be exempted in terms of Sl.No.12 of Mega Exemption Notification No.25/2012-ST dated 20.06.2012. It was also contended that subsequently, **Commissioner Appeals has in A.No.249/2018-ST vide Order in Appeal dated 08.09.2020** allowed the appeal in this regard in the appellant's favour. Similar Orders in respect of construction services of residential units (Police Quarters) rendered to TNPHC has been allowed in favour of the respective assessee/appellants vide **Final Order Nos. 40272-40273/2019 dated 08.02.2019 in Appeal Nos. ST/40784/2013 & ST/40785/2013 in the case of Manoharan & Co v CCE, Madurai and Final Order No.40274/2019 dated 08.02.2019 in Appeal No. ST/40845/2013 in the case of N. Rangaswamy & Co v CCE, Salem.**

7. Regarding the construction of houses for Tsunami District Implementation Unit, Pudukkotai (TDIU) and for Peoples Development Association (PDA) undertaken by PPPL as well as that undertaken by Mr. Panneerselvam for World Vision India, Ld. Counsel contended that these were not intended for sale, a condition precedent under explanation under Section 65 (105) (zzzh) for applicability of the said clause and hence construction of these individual houses for Tsunami affected poor homeless people provided by these organizations free of cost would come within the ambit of exclusion provided in connection with personal use in the explanation to Section 95(91a) as well as the exemption in terms of Sl.No.12 of mega notification No.20/2012-ST dated 20.06.2012. Reliance was placed on the ***Final Order No.40124/2025 dated 27.01.2025 in the Service Tax Appeal No.40609/2014 in the case of M/s. K.B. & Co. v The Commissioner of GST & Central Excise, Tirunelveli***, whereby the Chennai Bench of the Tribunal had determined that such construction of individual houses in the Tsunami affected areas by Tsunami District Implementation Unit, Pudukkotai (TDIU) were held to be not exigible to service tax.
8. Ld. Counsel submitted further argued that the Hospital constructions by the appellants cannot be considered as commercial or industrial construction services as per CBEC circular No.80/10/2004 dated 14.09.2004 and hence, would not come within the category of commercial or Industrial Construction Services as stipulated in Section 65(105zzq). It was also argued that not all the buildings can be classified as commercial or industrial construction unless engaged primarily in commerce or industry.
9. Regarding the constructions activities rendered by PPPL for Madurai Municipal Corporation, it was argued that they were construction of roads and also in respect of a construction of building which was abandoned at basement level on account of a Court order of stay. That the building was intended for the welfare of general public but was never completed, and hence no service tax liability has arisen.
10. Ld. Counsel further argued that there cannot be a demand of renting of immovable property service on Panneerselvam for merely receiving the rent amount due to his wife. The property belonged to Smt. Kayalvizhi

who has let it out to PPPL and hence there cannot be any demand against the appellant. It was also contended that the claim if any had become barred by limitation as there was no proceeding pending on the date of amendment of the section providing retrospective effect, and hence is not enforceable at law as per 2009 (14) STR 433 DELHI.

11. Ld. Counsel also argued that the Department has not shown any evidence of willful suppression or misstatement on the part of the appellants whereas the appellant had entertained a bonafide belief that the construction activities rendered by the appellants were not leviable to service tax given that they were either for Government organizations or for welfare measures of the Government/service-oriented NGOs and for Hospitals that provided health services to general public, citing the Board's Circular No.80/10/2004 dated 14.09.2004. Further, the Ld. Counsel stated that the appellant had provided the work orders sought by the Department and the demand itself has been worked out on the basis of the appellant's Income Tax returns and connected documents. It was contended that the appellant had not suppressed the facts or contravened any of the provisions of the Chapter or of the Rules made thereunder with intent to evade payment of service tax. Further, the appellant's claim of the service tax being clearly exempted from service tax as it was rendered for health services and to Tsunami affected people by the Government itself cannot be construed as suppression and service tax evasion. It was therefore contended that the extended period of limitation was not applicable and he prayed that the appeals be allowed.
12. Ms. O.M. Reena, Ld. Authorised Representative, appearing on behalf of the Respondent, reiterated the findings in the impugned orders of the respective adjudicating and appellate authority.
13. The issue that arises for consideration is whether the appellants are liable to pay service tax for the period from 01.04.2007 to 31.03.2012, pursuant to the demands confirmed invoking the extended period of limitation, on the allegation that the appellant had provided "Commercial or Industrial Construction Service" as per Section 65 (25)(b) of the Finance Act, 1994 (Act) and "Construction of Complex service" as per Section 65(91a) of the Act as well as whether Mr.

Panneerselvam is liable to pay service tax for the alleged renting of immovable property service rendered.

14. We note that the applicable statutory provisions of the Finance Act, 1994, during the relevant period, were as under:

65 (25b) Commercial or industrial construction” means —

(a) construction of a new building or a civil structure or a part thereof; or

(b) construction of pipeline or conduit; or

(c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services,

in relation to building or civil structure; or

(d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is —

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

65(105)(zzq) "taxable service" means any service provided or to be provided to any person, by any other person, in relation to commercial or industrial construction.

65(91a): “residential complex” means any complex comprising of—

(i) a building or buildings, having more than twelve residential units;

(ii) a common area; and

(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system, located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly

engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation. — For the removal of doubts, it is hereby declared that for the purposes of this clause, —

(a) "personal use" includes permitting the complex for use as residence by another person on rent or without consideration;

(b) "residential unit" means a single house or a single apartment intended for use as a place of residence;

65(30a) "construction of complex" means —

(a) construction of a new residential complex or a part thereof; or

(b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;

65(105) (zzzh): "taxable service" means any service provided or to be provided to any person, by any other person, in relation to construction of complex

Explanation (Inserted (w.e.f. 01.07.2010 by s. 76 of the Finance Act, 2010 (14 of 2010))- For the purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder before the grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer.

15. Bearing the above in mind, we find that, as regards the construction services of residential units (Police Quarters) rendered to TNPHC, this Tribunal in its decisions in ***Final Order Nos. 40272-40273/2019 dated 08.02.2019 in Appeal Nos. ST/40784/2013 &***

ST/40785/2013 in the case of Manoharan & Co v CCE, Madurai and Final Order No.40274/2019 dated 08.02.2019 in Appeal No. ST/40845/2013 in the case of N. Rangaswamy & Co v CCE, Salem have held that they are not exigible to service tax. We also notice that **Commissioner Appeals has in A.No.249/2018-ST vide Order in Appeal dated 08.09.2020** allowed the appeal in this regard in the appellant's favour. Revenue has not shown to us that the said decisions have not attained finality. Given that the facts and circumstances of these decisions are similar to that of the appellant, they also apply in the appellant's favour. Therefore, we hold that the construction services rendered by the appellant to TNHPCL are not exigible to service tax and the findings in the impugned order in this regard are liable to be set aside.

16. In so far as the demand raised on the appellants pertaining to construction of residential houses in Tsunami affected areas, we find from the work orders annexed that the appellant was constructing individual residential houses for the respective organizations.
17. At this juncture, it is apposite to notice that a coordinate bench of this Tribunal in its decision **in M/s. Jaypee Enterprises v. The Commissioner of CGST & C.Ex, Salem Commissionerate and M/s. Jay Pee Developers v. The Commissioner of CGST & Central Excise, Salem Commissionerate, 2025 (5) TMI 405-CESTAT CHENNAI**, had an occasion to consider the aforementioned relevant statutory provisions and has held as under:

"11) We find that, to come within the ambit of the definition of "residential complex" as defined in Section 65(91a), the complex should comprise of a building having more than twelve residential units, or the complex should comprise of buildings having more than twelve residential units. Such building or buildings having more than twelve residential units should have a common area and any one or more of the facilities stipulated therein. That the building or buildings should have more than twelve residential units, should have a common area and should have any one or more of the facilities stipulated therein are cumulative requirements. The definition also states what is excluded. A complex may satisfy all the requirements as stated above, yet if the complex is constructed by a person directly engaging any other person for designing or planning of the layout, and the

construction of such complex is intended for personal use as residence by such person, then such a complex is excluded from being considered a "residential complex" under Section 65(91a). From the appeal records, it is also evident from the photographs produced that these are individual houses that were constructed by both the appellants and not building or buildings having more than twelve residential units. **Therefore, by virtue of these individual houses not being a building or buildings having more than twelve residential units, they do not satisfy clause (i) of Section 65 (91a) and are therefore straightaway ousted from the ambit of the definition.**

12) We find that a view on similar line had earlier been taken by this Tribunal in *Macro Marvel Projects Ltd v CST, Chennai, 2008 (12) STR 603 (Tri-Chennai) which stood affirmed in Commissioner v Marco Marvel Projects Ltd, 2012 (25) STR J 154 (SC). The same ratio emanates from a catena of decisions as can be seen from Commr. Of C.Ex & ST, Bengaluru I Commissionerate v Alliance Infrastructure Projects Pvt Ltd, 2022 (56) GSTL 3 (Kar), Sikarwar v CCE, Indore, 2012 (28) STR 479 (Tri-Del), Naveen Kumar v CCE, Jaipur-I, 2017 (49)STR 175 (Tri-Del), and Final Order No.40124/2025 dated 27.01.2025 of this Tribunal in M/s. K.B & Co v The Commissioner of GST & Central Excise, Tirunelveli.* We refrain from citing other decisions in the similar vein, in the interest of avoiding prolixity.

13) **It is also pertinent that the impugned OIOs, have proposed to confirm the demands only under Construction of Complex Services for the period from 01-04-2009 to 31.03.2013, though the period is after 01- 06-2007, the date from which the definition of works contract service has come into effect. Given that the definition of Construction of complex under Section 65(30a), along with the definition of residential complex under Section 65(91a), and definition of taxable service of construction of complex under Section 65(105) (zzzh), continued to be in the statute even after 01-06-2007 till 01-07-2012, in light of the decision of the Honourable Apex Court in CCE v. Larsen and Toubro reported in 2015 (39) S.T.R. 913 (SC) the effect would be that the "service provided in relation to construction of complex" that would come within the ambit of Section 65(105)(zzzh) for this period from 01-06-2007 to 30-06-2012, could only be contract of services simpliciter. It is only by virtue of notification No.20/2012-ST dated 20- 06-2012 that provisions of Section 65 ceased to apply from 01-07- 2012. Therefore, even for the period upto 30-06-2012, the services rendered by both the appellants in these appeals, were**

outside the ambit of taxable service as provided in Section 65(105)

(zzzh). For the period, after 01-07-2012, the appellant have claimed the benefit of Sl.No.14(b) of the Mega Exemption Notification 25/2012 dated 20- 06-2012 which we find exempts services by way of construction pertaining to a single residential unit otherwise than as a part of a residential complex, from the whole of service tax leviable under Section 66B, and therefore rightly enure to the benefit of the appellants.

14) We are therefore of the considered view that the appellants in both the appeals under our consideration, cannot be considered to have rendered the services of construction of "residential complex", during the period under dispute, so as to come within the ambit of the definitions under Section 65(91a) and Section 65(30a). We therefore hold that the appellants cannot be considered to have rendered a taxable service in relation to construction of complex as stipulated in Section 65(105) (zzzh), thereby rendering the demand made on this count in the impugned OIOs wholly unsustainable."

(emphasis supplied)

18. We also find that the very same issue had arisen for consideration of the Chennai bench of the Tribunal in the decision rendered by the ***Final Order No.40124/2025 dated 27.01.2025 in the Service Tax Appeal No.40609/2014 in the case of M/s. K.B. & Co. v The Commissioner of GST & Central Excise, Tirunelveli***, whereby such construction of individual houses in the Tsunami affected areas by Tsunami District Implementation Unit, Pudukkottai (TDIU) were held to be not exigible to service tax. Therefore, respectfully following the aforesaid decisions, we hold that the appellant is not liable to pay service tax on the construction services rendered to Tamil Nadu Police Housing Corporation (TNHPCL), Tsunami District Implementation Unit, Pudukkottai (TDIU) and for Peoples Development Association (PDA) and the demand confirmed and upheld in the impugned orders to that extent are liable to be set aside.
19. Further, we find that as regards the constructions services rendered in respect of the Hospitals as well as that rendered to Madurai Municipal Corporation, the demand is proposed to be confirmed under the category of "Commercial and Industrial Construction Services" for the relevant period. Concededly, the SCN itself computes the liability after extending abatement of 67%. It also acknowledges that in respect of certain construction works no materials were supplied to the noticee

while in respect of others they had received advance payment for purchase of materials. Thus, indisputably supply of goods did form part of the services rendered by the appellant and as such the service provided is a composite one of goods and services. It is also pertinent that the SCN states that in the statement recorded the appellant had been explained that the activities attract service tax under commercial or Industrial Construction Service/works contract service. As noticed and applied in the coordinate bench decision in ***M/s. Jaypee Enterprises supra***, therefore, when the law of the land, as laid down in the Apex Court decision in ***CCE v. Larsen and Toubro reported in 2015 (39) S.T.R. 913 (SC)*** holds the field, with the advent of works contract services with effect from 01-06-2007, demand of service tax on the construction services rendered by the appellants under the aforesaid category of "commercial or industrial construction" is wholly unsustainable. What gets covered under Section 65(25b) read with Section 65(105)(zzq), post 01-06-2007, would only be commercial or industrial construction service that are services simpliciter. It is only by virtue of notification No.20/2012-ST dated 20-06-2012 that provisions of Section 65 ceased to apply from 01-07-2012. Therefore, for the period upto 31-03-2012, the services rendered by both the appellants in these appeals, were clearly outside the ambit of taxable service as provided in Section 65(105) (zzq) under which the demand has been proposed and stood confirmed, given the law laid down in ***CCE v. Larsen and Toubro reported in 2015 (39) S.T.R. 913 (SC)***.

20. Furthermore, the appellant PPPL has stated that the construction that they embarked on for the Madurai Municipal Corporation was abandoned at basement level and was incomplete owing to a Court Order of Stay, which remains uncontroverted. We find that there is no evidence relied on in the SCN of any information gathered from the approved plan of the building or civil construction. Therefore, we find that the Department has not let in any evidence that the appellant had carried out the construction of a complex that was primarily for commerce, especially when the onus was on the Revenue to prove that the appellant has constructed such a commercial complex as has been held in the Tribunal decisions cited hereinafter. The principal bench of this Tribunal in the decision in ***Commissioner of Service Tax, Delhi-***

III v. Global Civil Projects Ltd, (2025) 28 Centax 240 (Tri-Del)

has held as under:

“6.8 Above all onus is on department to establish that the building was being used for such purposes by which the organization using the same was making profit. We draw our support from the decision in the case of *Manisha Projects Pvt. Ltd. v. Commissioner of Central Excise & S.T., Ghaziabad* reported as 2019 (3) TMI 448 – CESTAT Allahabad. In view of above discussions, it is held that construction services provided to IIM, DDA and CEAI are not taxable under 'Commercial or Industrial Construction Service', 'Construction of Complex Service' or 'Works Contract Service'. Thus, the impugned demand is not sustainable.”

21. Again, in the decision in ***Manisha Projects Pvt. Ltd. v. Commissioner of Central Excise & S.T., Ghaziabad, 2019 (24) G.S.T.L 741 (Tri-All)***, the Tribunal has held as under:

“5. Having considered the submissions from both the sides and on perusal of record and the said circular issued by C.B.E. & C., we note that Departmental officers are bound by the Circular issued by Central Board of Excise and Customs. We note that C.B.E. & C. had issued Circular No. 80/10/2004-S.T., dated 17-9-2004 and in Para 13.2 clarified that the leviability of Service Tax was primarily dependent upon the use of the building or civil structure. Further, it clarified that it was to be ascertained where building or civil structure was used or to be used for commercial or industrial purpose and further required or gather the information as to whether the buildings or civil structures were being used or to be used for the purpose of making profit or not and clarified that if the building or civil structure was used or to be used not for the purposes of profit then the same are not taxable. We note that appellant had raised this point and took a categorical stand before the Original Authority that it was possible for Revenue to cause inquiry regarding the registration of Manyavar Kanshi Ram Hospital from concern Government authority to know whether the building was being used for the purpose of making profit or not and that Revenue did not make such enquiries and issued show cause notice on pure assumption. We note that the Original authority has not dealt with this aspect of onus on Revenue to prove that such building was being used for making profit to satisfy the requirement of the said circular issued by the board and the impugned order is silent on the same. Through the proceedings, we have come to know that Revenue has repeatedly passed on the onus on the appellant to

establish that the building constructed for use by Manyavar Kanshiram Hospital was not for commercial purpose. **However, as per the said clarification onus was on Revenue to prove that the said building was being used or to be used for making profit. We note that the construction of the building was done during the years 2008-09 and 2009-10 where the show cause notice was issued on 24- 0-2013. We note that for issue of show cause notice Revenue could not give any evidence to establish that the said building was being used for such purposes by which the organization using the same was making profit. Therefore, in terms of the said circular Service Tax was not leviable on the said activity performed by the appellant. Since the Service Tax was not leviable and appellant is succeeding on merit the issue of limitation need not be discussed and decided.**

6. In view of the above, we set aside the impugned order and allow the appeal. Appellant shall be entitled for consequential relief as per law.”

22. In any event, we find that the appellant has contended that the demand is barred by limitation stating that the Department has not shown any evidence of wilful suppression or misstatement on the part of the appellants whereas the appellant had entertained a bonafide belief that the construction activities rendered by the appellants were not leviable to service tax given that they were either for Government organizations or for welfare measures of the Government/service-oriented NGOs and for Hospitals that provided health services to general public. The appellant had also cited the Board’s Circular No.80/10/2004 dated 14.09.2004 in this regard.
23. Indisputably, the show cause notice does not let in any evidence of any positive or deliberate act of wilful suppression or misstatement of facts with intent to evade payment of duty on the part of the appellant. Even the statement recorded merely states that the appellant had been explained that the activities attract service tax under commercial or Industrial Construction Service/works contract service and he has agreed to comply, and thus the statement is not an inculpatory one, and thereby, at best attributing ignorance to the appellant. It is a settled principle in law by a catena of Apex Court Judgements that mere non payment of tax, without any element of intent or suppression is not sufficient to attract the extended period of limitation. In the decision in ***M/s. Stemcyte India Therapeutics Pvt Ltd v. Commissioner of***

Central Excise & Service Tax, Ahmedabad- III, 2025 INSC 841, the Apex Court has held in para 9.3, as under:

“**9.3.** It is a settled principle of law that, for the department to invoke the extended period of limitation, there must be an active and deliberate act on the part of the assessee to evade payment of tax. Mere non-payment of tax, without any element of intent or suppression, is not sufficient to attract the extended limitation period.”

The Apex Court had then gone on to refer to the decisions in **Padmini Products v. CCE4 [(1989) 4 SCC 275]**, **CCE v. Chemphar Drugs and Liniments [(1989) 2 SCC 127]**, **Pushpam Pharmaceuticals Co. v. CCE [1995 Supp (3) SCC 462]** and **CCE v. Punjab Laminates (P) Ltd [(2006) 7 SCC 431]** the Apex Court and went on to hold thus:

“**9.4.** Therefore, in the absence of fraud, collusion, wilful misstatement, or suppression of facts with an intent to evade payment of service tax, the invocation of the extended period of limitation under Section 73 of the Finance Act, 1994 is wholly unwarranted. Mere non-payment of service tax, by itself, does not justify the invocation of the extended limitation period. Accordingly, the show cause notice issued by the department is clearly time-barred. On this ground alone, the impugned order deserves to be set aside.”

24. We also note that in the decision reported in **Uniworth Textiles v CCE, Nagpur, 2013 (288) ELT 161 (SC)**, while considering the ingredients required to invoke the extended period of limitation, the Supreme Court has observed that it is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it. The Apex Court referred to its decision in *Union of India v. Ashok Kumar & Ors. - (2005) 8 SCC 760* wherein it was held that “*it cannot be overlooked that burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demand proof of a high order of credibility.*” Therefore, on the plea on invoking of the extended period of limitation, we cannot but hold in the appellant’s favour.
25. We also find merits in the submission that the demand on renting of immovable property cannot be made on the appellant Panneerselvam when the contention of the appellant that the property belonged to Smt.

Kayalvizhi who has let it out to PPPL remains uncontroverted. In any event, when the demand of service tax on the said activity of renting of immovable property was susceptible to interpretational disputes and was the subject matter of litigation, resulting in the levy being effectuated through retrospective amendment, the demand is wholly barred by limitation. We are fortified in our view by the decision of the Tribunal in ***Municipal Council Gurdaspur, Punjab v CCE, Goods & Service Tax, Ludhiana, 2025 (10) TMI 621 -CESTAT Chandigarh.***

26. In light of our aforesaid discussion and analysis, we find that the impugned orders to the extent they have been challenged in these Appeals are unsustainable and liable to be set aside. Ordered accordingly.

The appeals are allowed, with consequential relief(s) in law, if any.

(Order pronounced in the open court on 18.06.2026)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)