CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 51281 of 2015

[Arising out of Order-in-Appeal No. JAL-EXCUS-000-APP-258-259-14-15 dated 19.01.2015 passed by the Commissioner (Appeals), CE & Cus, Chandigarh-II]

Municipal Corporation, Mohali **……Appellant**
Municipal Bhawan, Sector 68,
Mohali, Punjab 160062

VERSUS

Commissioner of Central Excise and Service Tax, Chandigarh-I **……Respondent**
Central Revenue Building, Plot No. 19,
Sector 17-C, Chandigarh 160017

WITH

Service Tax Appeal No. 51280 of 2015

[Arising out of Order-in-Appeal No. JAL-EXCUS-000-APP-258-259-14-15 dated 19.01.2015 passed by the Commissioner (Appeals), CE & Cus, Chandigarh-II]

Municipal Corporation, Mohali **……Appellant**
Municipal Bhawan, Sector 68,
Mohali, Punjab 160062

VERSUS

Commissioner of Central Excise and Service Tax, Chandigarh-I **……Respondent**
Central Revenue Building, Plot No. 19,
Sector 17-C, Chandigarh 160017

APPEARANCE:

Mr. Sudeep Singh Bhangoo, Advocate for the Appellant

Mr. Yashpal Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60400-60401/2026

DATE OF HEARING: 13.02.2026
DATE OF DECISION: 01.07.2026

S. S. GARG :

These two appeals are directed against a common impugned Order-in-Appeal No. JAL-EXCUS-000-APP-258-259-14-15 dated 19.01.2015 passed by the Commissioner (Appeals), Chandigarh-II, whereby the learned Commissioner (Appeals) upheld the demand of service tax on 'selling of space for advertisement service' classifiable under Section 65(105)(zzzm) of the Finance Act, 1994. Since the issue involved in both the appeals is identical in nature and there is common impugned order, therefore, both the appeals are taken up together for discussion and decision. Particulars of both the appeals are given herein below:

Appeal No.	ST/51281/2015	ST/51280/2015
Period involved	April 2005 to March 2010	October 2010 to March 2012
Service Tax involved	Rs.11,92,449/-	Rs.19,86,250/-
SCN date	30.05.2011	18.10.2012
OIO date	29.08.2012	29.11.2013
OIA date	19.01.2015	

For the sake of convenience, the facts of Appeal No. ST/51281/2015 are being taken up.

2. Briefly stated facts of the case are that the Appellant Municipal Corporation, Mohali, are a sovereign local body. During the relevant period, an inquiry was conducted by the Department and a view was formed that the Appellant had been engaged in the "Selling of Space

for Advertisement" to the different parties and had not paid the service tax on the amounts so received, which they were liable to pay under the category of 'Selling of Space for Advertisement' taxable under Section 65(105)(zzzm) of the erstwhile Chapter-V of the Finance Act, 1994. On this allegation, a Show Cause Notice dated 30.05.2011 was issued to the Appellant demanding service tax amounting to Rs.16,84,150/- by invoking the extended period of limitation for the period from April 2005 to March 2010, along with interest and penalty. The Appellant filed reply to the Show Cause Notice and contested the allegation made in the said Show Cause Notice on the following grounds:

(i) That the Appellant had entered into agreements with the various parties for the development, repair, upkeep and maintenance of the various utilities, parks and green belts and had recovered license fee in lieu thereof, such parties have been given liberty to allow the interested parties to display their advertisement.

(ii) That the land which was being developed/maintained was not the ownership of the Municipal Corporation but was the property of GMADA, which had been handed over to them for maintenance and for the maintenance such parks, green belts etc, for the benefit of the general public the local body needed funds for carrying out the expense, for which the constitution has empowered the local bodies to collect advertisement tax; that advertisement tax had been collected under Section 90

read Section 122 of the Punjab Municipal Corporation Act, 1976 from various parties which had been described as license fee.

(iii) That the parties, who had undertaken the maintenance work etc, were the one who were providing the space for advertisements and were liable to pay service tax.

(iv) That the Appellant had also relied upon the Circular No. 89/7/2006-ST dated 08.12.2006 and subsequent master Circular No. 96/7/2007-STC dated 23.08.2007 wherein it had clarified that any tax or fee collected by virtue of an authority conferred under the law by any constitutional body in exercise of its power is not taxable.

(v) That the activity of "Selling of Space" has been excluded from the purview of Service Tax w.e.f. 01.07.2012 onwards. Hence, the levy if at all was there prior to 01.07.2012 was unintended.

After following the due process, the Adjudicating Authority confirmed the demand, in toto, along with interest and also imposed penalties under Sections 77 and 78 of the Finance Act. Aggrieved by the order of the Adjudicating Authority, the Appellant filed the appeal before the Commissioner (Appeals) and the learned Commissioner (Appeals) has upheld the demand to the extent of Rs.11,92,449/- after allowing the benefit of cum-tax-value. The learned Commissioner (Appeals) has also upheld the penalties and the interest. Hence, the present appeals.

3. Heard both sides and perused the material on records.

4. The learned Counsel for the Appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts & the law and the binding judicial precedents.

4.1 He further submits that the activity of Selling of Space for Advertisement as per Section 65(105)(zzzm) of the Finance Act was taxable if a person provides service to another person. He then refers to the definition of "taxable service" as provided in Section 65(105)(zzzm) of the Finance Act, 1994 and submits that the word 'person' was not defined in the Finance Act, 1994 prior to 01.07.2012 but has to be referred to the General Clauses Act, 1897 where the 'person' has been defined as under:

> *"2(42) Person shall include any Company or association or body of individuals, whether incorporated or not".*

He further submits that the Appellant being a "local body" is not covered within term "person" and consequently, not covered under the definition of "taxable service" as provided under Section 65(105)(zzzm) of the Finance Act, 1994 for the purpose of levy of service tax. In this regard, he places reliance on the decision of the Tribunal in the case of ***Deputy Commissioner of Police, Jodhpur Vs. Commissioner of C. Ex. and S.T., Jaipur-II – 2017 (48) STR 275 (Tri-Del)***, wherein it was held that the State and the Police Department is not covered under the definition of a person providing the security service; in the said case, the argument of assessee that the Police Department being a State is not covered under the definition of a person as provided under the General Clauses Act has

been accepted by the Tribunal as well as by the Supreme Court as the said decision of the Tribunal has been upheld by the Hon'ble Supreme Court, cited as ***2018 (11) GSTL J133 (SC)***. He also relies on the decision of the Tribunal in the case of ***M/s Indian Red Cross Society Vs. Commissioner of C.Ex. & S.T., Chandigarh - Final Order No. 60361/2025 dated 05.03.2025***, wherein it has held that the Government is not covered by the term 'person' prior to 01.07.2012. He also submits that by the same analogy, the Municipal Corporation is also not a 'person' and hence, it does not fall under the ambit of service tax.

4.2 The learned Counsel further submits that the Commissioner (Appeals) has upheld the demand by holding that the amount received by the Appellant as 'licence fee' cannot be equated with 'advertisement tax' leviable under Sections 90 and 122 of the Municipal Corporation Act as the levy is always without any give and take principle; hence the Commissioner (Appeals) has treated the amounts received as "licence fee" (advertisement tax) as consideration for provision of a service. He further submits that the properties which had been given to the different parties, are not owned by the Appellant but are owned by GMADA and were handed over to them for maintenance, repair and management of parks, green belts, bus shelters etc. He further submits that the Appellant had further given these properties to different parties for maintenance, repair and management of the allotted area and were allowed to display advertisements by any interested person as per the specifications agreed upon and it is due to this fact that the

Appellant had levied and charged 'advertisement tax' under Sections 90 and 122 of the Municipal Corporation Act. He also refers to the Provisions of Article 243X of the Constitution of India which also authorize 'Local Bodies' to impose taxes. He also submits that the amounts charged as 'licence fee' are nothing but advertisement tax, thus, it has been erroneously held by the Commissioner (Appeals) that amounts charged cannot be treated a tax as give and take principle is involved. He further submits that the advertisement tax being a statutory levy is not leviable to service tax as held by the Tribunal in the case of ***Karad Nagar Parishad Vs. Commissioner of C.Ex. & S.T., Kolhapur – 2019 (20) GSTL 288 (Tri-Mum)***.

4.3 The learned Counsel further submits that the Appellant have performed the statutory activity as a sovereign body; the amount collected by the Appellant, has been deposited in the Government Treasury to be used for the public interest; therefore, the said activity cannot be held to be taxable. In this regard, he refers to the Board's ***Circular No. 89/7/2006-ST dated 18.12.2006***.

4.4 The learned Counsel further submits that the Department has not brought any evidence to substantiate that the Appellant have charged any amount other than advertisement tax, which could be treated as 'consideration' for the purpose of levy of service tax.

4.5 The learned Counsel further submits that the entire demand for the financial years from 2005-06 to 2009-10 raised by the Show Cause Notice dated 30.05.2011 is beyond the normal period of one year as provided under Section 73 of the Finance Act during material

period and is not sustainable as extended period is not invokable in this case because the Appellant were under *bona fide* belief that no service tax is payable on the 'advertisement tax' collected; moreover, the issue involves interpretation of law as to whether amounts collected as licence fee/advertisement tax under the aforesaid law could be held as a 'consideration' for "Selling of Space for Advertisement Service". In this regard, he places reliance on the judgment of Hon'ble High Court of Rajasthan in case of ***Commissioner of CGST, Jaipur Vs. Rajasthan Tourism Development Corporation Ltd. – 2018 (15) GSTL 307 (Raj.)***, wherein it was held that extended period in case of public undertakings of State cannot be invoked. He further submits that even the Tribunal in the case of ***Karad Nagar Parishad*** *(supra)* has also held that the Municipal Corporation is not an individual and cannot be imagined that the Government itself is involved in suppression of fact with intent to evade service tax.

4.6 The learned Counsel also submits that the interest and penalties cannot be imposed because the demand itself is not sustainable.

5. On the other hand, the learned Authorized Representative for the Department reiterates the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record. We find that the only issue involved in the present case is whether the Appellant, being a sovereign local body, are liable to service tax under the category of

'Selling of Space for Advertisement Service' classifiable under Section 65(105)(zzzm) of the Finance Act, 1994 or not?

7. We note that the period involved in the present appeal is from April 2005 to March 2010 and during that time, the activity of Selling of Space for Advertisement was taxable if a person provides service to another person. But in the present case, the Appellant being a local body, are not covered within the term "person" and consequently not covered under the definition of "taxable service". Further, we also find that this issue has been decided by the Principal Bench of the Tribunal in the case of ***Deputy Commissioner of Police, Jodhpur*** *(supra)*, wherein the Tribunal has held that the State and the Police Department is not covered under the definition of a person providing the security service; and accordingly, the demand was set aside by the Tribunal and further, the said decision of the Tribunal has been upheld by the Hon'ble Supreme Court, as cited supra. Similarly, the Tribunal in the case of ***M/s Indian Red Cross Society*** *(supra)*, has held that the Government is not covered by the term 'person' prior to 01.07.2012 when the word 'person' was not defined in the Finance Act, 1994. Therefore, by following the ratios of these decisions, we hold that the Municipal Corporation is not a 'person' and hence, it does not fall under the ambit of service tax.

8. Further, we find that the learned Commissioner (Appeals) has wrongly held that the amount received by the appellant as 'Licence fee' cannot be equated with 'advertisement tax' leviable under

Sections 90 and 122 of the Municipal Corporation Act. We also find that in fact, the properties which were given to the different persons for placing advertisements, are not owned by appellant but are owned by GMADA which were handed over to the Appellant for maintenance, repair and management of parks, green belts, bus shelters etc and the appellant further gave those properties to different parties for maintenance, repair and management of the allotted area and allowed them to display advertisements and levied and charged 'advertisement tax' from them under Sections 90 and 122 of the Municipal Corporation Act which they were authorized to do so in view of the provisions of Article 243X of the Constitution of India. We note that the same issue was considered by the Tribunal in the case of ***Karad Nagar Parishad*** *(supra)*, wherein the Tribunal held as under:

> *"**4.** ---------- but it is an advertisement tax which is a statutory levy and collected for display the advertisement by any person at any place whether the place owned by the Corporation or by any individual therefore the advertisement tax being a statutory levy cannot be chargeable to service tax."*

9. As regards the invocation of extended period, we find that the demand pertains to the financial years from 2005-06 to 2009-10 and the Show Cause Notice was issued on 30.05.2011 which is beyond the normal period of one year as provided under Section 73 of the Finance Act, 1994 during material period. We also find that the issue involved in the present case relates to interpretation of legal issue and the Appellant being a local body/public undertaking of the Government cannot be alleged to have suppressed the facts with

intent to evade the tax as held by the Hon'ble High Court of Rajasthan in case of ***Commissioner of CGST, Jaipur Vs. Rajasthan Tourism Development Corporation Ltd*** *(supra)*, wherein it was held that extended period in case of public undertakings of State cannot be invoked. Therefore, we hold that the extended period of limitation is not invokable in the present case and entire demand is not sustainable.

10. As regards the imposition of penalties and the interest, we hold that since the demand itself is not sustainable, the question of any interest and penalty cannot arise.

11. Keeping in view of our discussion above, we are of the considered opinion that the ratios of the decisions (cited supra) are squarely applicable to the facts & circumstances of the present case and by following the same, we hold that the entire demand is not sustainable in law and therefore, we set aside the impugned order by allowing both the appeals of the Appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 01.07.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

RA_Saifi