

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
KOLKATA  
REGIONAL BENCH – COURT NO.2**

**Service Tax Appeal No. 76611 of 2024**

(Arising out of Order-in-Appeal No. 281/GHY(A)/COM/ST/SH/2024 dated 16.08.2024 passed by Commissioner (Appeals), CGST, Central Excise and Customs, Guwahati.)

**Shri Bhalang Singh Phanbuh,**  
(C/o Dilip Singh, 020 Old Jowai Road, Near Lorreto Covent,  
Lachummiere, East khasi Hills, Meghalaya-793001)

**...Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Shillong,**  
(Divison-I, Nongrim Hills, Shillong-793003)

**...Respondent**

..

**APPERANCE :**

Shri Pranab Kumar Sikder & Mr. D. Bhattacharyay, Advocates for the Appellant  
Shri Suman, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)**

**Final Order No...75852./2026**

DATE OF HEARING : 01.07.2026

DATE OF PRONOUNCEMENT: 07.07.2026

**PER R. Muralidhar :**

Based on the details contained in Form 26 A.S. of the Income Tax Returns, a Show Cause Notice was issued to the appellant on 8.11.2019 for the services provided during the period 2014-15 to 2017-18. The Show Cause Notice was issued by invoking the extended period provisions demanding Service Tax of Rs.6,25,966/-.

2. After due process, the adjudicating authority confirmed the demand. Upon appeal, the Commissioner (Appeals) has dismissed the appeal filed by the appellant on the ground that the same was filed

**Service Tax Appeal No. 76611 of 2024**

beyond the appealable period of 60 days plus the condonable period of 30 days. Being aggrieved, the appellant is before the Tribunal.

3. The Learned Consultant appearing on behalf of the appellant first takes me through the issue of delayed filing of the appeal before the Commissioner (Appeals). He submits that the OIO dated 14.08.2020 was passed during the COVID pandemic and was not received by the appellant at that time. They have come to know that such an order was passed when an order towards attachment of Bank Account was passed by the CGST authorities on 27.09.2022. They have followed up with the jurisdictional authorities to supply the copy of the OIO. Since they were not given the copy of the OIO for filing the appeal, the appellants have filed an appeal before the High Court of Meghalaya. The High Court has directed the appellant to take up the matter with the concerned appellant authority. After this, the appellant has filed one RTA application on 23.02.2024 (page no. 73 of the appeal book). In response to the RTA application filed by the appellant, the CPIO & Asst Commissioner on 24.02.2024 granted and copy of the OIO No. 10 dated 14.08.2020. After receiving this OIO on 24.02.2024, the appellant has filed the appeal before the Commissioner on 23.04.2024.

4. The Learned Consultant submits that if all these facts are taken together, then it would be seen that the appellant has filed the appeal within one month from the date of receipt of the OIO by way of RTA application. In view of these submissions, he prays that it may be held

**Service Tax Appeal No. 76611 of 2024**

that the appeal before the Commissioner (Appeals) was filed within the normal period only.

5. He further submits that since the issue is in a short compass, the appeal may be decided at the Tribunal itself. The Kolkata Bench of the Tribunal, in ***Shri G. Pradeep Pillai (Service Tax Appeal No. 75532 of 2024)***, after setting aside the order of the Commissioner (Appeals) on limitation and condoning the delay, decided the appeal on merits itself, holding that remand was unnecessary where the record was complete and the controversy could be finally adjudicated.

6. He submits that the entire case has been built based on the 26 AS statement. The Department has taken the stand that for the period 2014-15 to 2017-18, the appellant is shown to have received amounts from ABC India Ltd., Amrit Hatcheries Ltd., HPCL, etc. Based on these receipts, the demand was quantified at Rs.6,25,966/-.After due process, the adjudicating authority has confirmed the demand. As submitted above, the Commissioner (Appeals) has not gone into the merits but has dismissed the appeal on account of limitation itself.

7. Learned Consultant submits that the appellant has a strong case both on merits as well as on account of limitation. He submits that the 26 AS statement relied upon by the Revenue shows that the TDS Section of the Income Tax Act is 194C and 194IB as can be seen in the

**Service Tax Appeal No. 76611 of 2024**

table contained in the Show Cause Notice and OIO. He submits that these are the Sections of Income Tax wherein the 26 AS depicts the amounts paid by the appellant and not the amounts received by the appellant. Therefore, he submits that the entire Show Cause Notice which is based on the quantification done as per 26 AS is erroneous. On this ground, he says that since the appellant has not received the amount but has actually paid the amount which is reflected in 26 AS, the appeal should be allowed on merits.

8. He further takes the stand that the Show Cause Notice issued on 8.11.2019 pertains to the period 2015-16 to 2017-18 and the demand is quantified only based on the Form 26AS of Income Tax Return. Hence, it is submitted that the SCN is time-barred. He relies on various case laws wherein it has been held by the Benches of Tribunal that when the Show Cause Notice is issued based on the Form 26 AS / ITR returns without proper verification and investigation, the demand cannot be sustained. Based on these submissions, he prays that the appeal may be allowed even on account of limitation.

9. The Learned AR takes the stand that the appellant has filed the appeal before the Commissioner (Appeals) in a delayed way, much beyond the condonable period of 30 days after the normal period of 60 days allowed for filing such appeals. Therefore, he justifies the dismissal of the appeal by the Commissioner (Appeals). Further, he reiterates the findings of adjudicating authority. He submits that Form 26 AS clearly

**Service Tax Appeal No. 76611 of 2024**

proves that the appellant has received the amount from HPCL, ABC, India Ltd and others. Therefore, the Revenue has correctly taken these as the consideration received by the appellant for the services provided by the and accordingly the demand has been confirmed. He further submits that only in view of the Income Tax Returns and Form 26 AS obtained from the income tax Department, the appellant was made to give the details of the Balance Sheet and profit and loss account and only after verification of these documents, the Department could issue the Show Cause Notice. Therefore, he justifies the confirmed demand for the extended period. In view of these submissions, he prays that the appeal may be dismissed.

10. Heard both sides and perused the appeal papers and the documents placed before me.

11. I first take up the issue as to whether the appeal has been filed before the Commissioner (Appeals) in a belated way as has been held by him or within the correct period as is being canvassed by the appellant. I find that the order has been passed on 14.08.2020 which happens to be the Covid period. The appellant received a letter about the Account Freezing Notice on 27 September 2022. This has been claimed by them before the Hon'ble Meghalaya High Court. After this, the appellant has approached the jurisdictional officials for a copy of the OIO, as can be seen from the following extracted copies of the letters:

**Service Tax Appeal No. 76611 of 2024**

ANNEXURE - (4)

- 71 -

To  
The Assistant Commissioner,  
CGST Shillong Division-I,  
Nongrim Hills, Shillong – 793003

25.11.2022

Sub :- Request for Supply a copy of Order-In-Original passed with regard to the Show Cause Notice vide C. No. IV (9) 46/ GST/ Adjn/ Sh.Div-I/ 2019/ 3734 dated 08.11.2019 in respect of Shri Bhalang Singh Phanbuh, Proprietor of M/s Bhalang Associates, Tours and Travels, Old Jowai Road, Near Lorreto Convent, Lachumiere, Shillong, Meghalaya 793001.

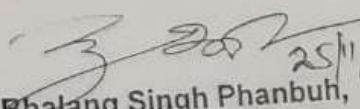
Sir,

In inviting a reference to the subject cited above, I, Shri Bhalang Singh Phanbuh, Proprietor of M/s Bhalang Associates, Tours and Travels, Old Jowai Road, Near Lorreto Convent, Lachumiere, Shillong, Meghalaya 793001, beg to state that I was made aware of the issuance of a demand Order dated 14.08.2020 from the letter of the Branch Manager, State Bank of India, Byrnihat Branch, Meghalaya, stating that M/s Bhalang Associates, Shillong, have defaulted in payment of Service Tax, which was confirmed vide the said Order dated 14.08.2020 by the Department, therefore, Bank Account of M/s Amjok Auto Agencies to be frozen U/s 87 (c) of the Finance Act, 1994.

Therefore, in the light of the above submissions, it is humbly requested that a copy of the said Order dated 14.08.2020, may be communicated to me, as I have not received the same earlier.

And for this Act of Kindness I shall ever be grateful.

Yours Faithfully,

  
Shri Bhalang Singh Phanbuh,  
C/o Dilip Singh, 020 Old Jowai Road,  
Near Loreto Convent, Lachumiere,  
Shillong, Meghalaya – 793001

## Service Tax Appeal No. 76611 of 2024

ANNEXURE '5'

-72-

To  
The Assistant Commissioner,  
CGST Shillong Division-I,  
Nongrim Hills, Shillong – 793003

04.01.2023

Sub :- REMINDER APPLICATION requesting for Supply a copy of Order-In-Original passed with regard to the Show Cause Notice vide C. No. IV (9) 46/ GST/ Adjn/ Sh.Div-I/ 2019/ 3734 dated 08.11.2019 in respect of Shri Bhalang Singh Phanbuh, Proprietor of M/s Bhalang Associates, Tours and Travels, Old Jowai Road, Near Lorreto Convent, Lachumiere, Shillong, Meghalaya 793001.

Ref :- My application dated 25.11.2022 in the above mentioned subject.

Sir,

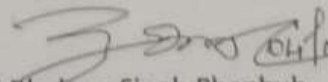
In inviting a reference to the subject cited above, I, Shri Bhalang Singh Phanbuh, Proprietor of M/s Bhalang Associates, Tours and Travels, Old Jowai Road, Near Lorreto Convent, Lachumiere, Shillong, Meghalaya 793001, once again beg to state that I was made aware of the issuance of a demand Order dated 14.08.2020 from the letter of the Branch Manager, State Bank of India, Byrnihat Branch, Meghalaya, stating that M/s Bhalang Associates, Shillong, have defaulted in payment of Service Tax, which was confirmed vide the said Order dated 14.08.2020 by the Department, therefore, Bank Account of M/s Amjok Auto Agencies to be frozen U/s 87 (c) of the Finance Act, 1994.


In this context I have preferred an application dated 25.11.2022 before your esteemed self for supply of a copy of the Order dated 14.08.2020, however, till date no copy of the said Order has been communicated to me.

Therefore, in the light of the above submissions, it is once again requested that a copy of the said Order dated 14.08.2020, may be communicated to me for further action, as I have not received the same earlier.

Thanking you.

Yours Faithfully,

  
Shri Bhalang Singh Phanbuh,  
C/o Dillip Singh, 020 Old Jowai Road,  
Near Loreto Convent, Lachumiere,  
Shillong, Meghalaya– 793001



**Service Tax Appeal No. 76611 of 2024**

12. The above letters show that the appellant has requested the jurisdictional Asst Commissioner on 25.11.2022 and when no response was received one more letter was addressed to him on 04.01.2023.

13. When the OIO was not supplied by the Asst Commissioner, the appellant has filed a Writ Petition before the High Court of Meghalaya seeking the condonation of delay as well as copy of the OIO. The Order of the High Court is extracted below:

Serial No. of the requisite number of Stamps and folios	Date of receipt of requisite stamp and folio	Date on which the copy was ready for delivery	Date of making copy of the application
08/2023	08/08/2023	10/08/2023	10/08/2023

**ANNEXURE - 0 - 45 -**

Serial No. 01  
Supplementary List

**HIGH COURT OF MEGHALAYA  
AT SHILLONG**

WP(C) No. 213 of 2023

Date of order: 20.07.2023

M/s Amjok Auto Agencies vs The Deputy Commissioner, CGST,  
Shillong Division-I

**Coram:**  
Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice  
Hon'ble Mr. Justice W. Diengdoh, Judge

**Appearance:**

For the Petitioner : Mr N. Dasgupta, Adv.  
Ms P. Sikdar, Adv.

For the Respondent : Dr N. Mozika, DSGI with  
Ms A. Pradhan, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

**JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)**

There is no merit in the present petition which has been filed by a partnership firm through one of its partners, which partner was, according to the petitioner, one of the partners of another partnership firm by the name of Bhalang Associates against which firm an order of attachment of bank account has been passed by the Central Goods and Services Tax authorities on September 27, 2022.

2. The initial ground sought to be made out is that the bank account number indicated in the order of attachment pertains to an account of Amjok Auto Agencies and is not the bank account of

-16 -

Bhalang Associates. However, it is evident from the petitioner's submission that the partner through which the present petition has been filed is a partner of both Bhalang Associates and Amjok Auto Agencies.

3. The primary ground urged on behalf of the writ petitioner is that Bhalang Associates and its partners did not receive the order-in-original dated August 14, 2020 in pursuance whereof the order of attachment has been issued and the relevant assessee has been branded as a defaulter.

4. However, it appears that the order-in-original came to be passed pursuant to a show-cause-cum-demand notice of November 8, 2019 issued by the Department to which the relevant assessee replied on December 9, 2019.

5. It is evident that the show-cause notice of November 8, 2019 was issued in terms of Section 174 (2) of the Central Goods and Services Tax Act, 2017 read with the Service Tax Rules, 1994. The relevant assessee, including the partners thereof, should reasonably have been aware that upon a show-cause notice of such kind being issued and the response being received, an order would follow, whether dropping the demand or finding the assessee liable for the entirety or a part of the demand. It would not do for the assessee to claim that the assessee had no obligation to keep track of the matter.

77-

6. At any rate, the thin thread on which the present petition hangs is as to whether the relevant order-in-original of August 14, 2020 was issued to or received by the assessee in question. For a start, since this writ petition has been filed by a different partnership firm, albeit through a common partner, the allegation in the petition that the relevant assessee did not receive the order-in-original cannot be taken cognisance of. Secondly, if it was indeed the case that the relevant assessee had not been served the order-in-original, a representation ought immediately to have been made upon receipt of the notice of attachment of September 27, 2022. In fact, any prudent person of ordinary intelligence would have responded thus, if the order-in-original had, indeed, not been served.

7. Finally, the writ petitioner or the relevant assessee or its officers should have taken appropriate steps in accordance with law by now. It is nearly 10 months since the receipt of the relevant notice by the assessee. Though there is no period of limitation prescribed for matters pertaining to Article 226 of the Constitution of India, yet the writ court does not come to support a laggard or someone who has slept over his perceived rights.

8. For the reasons aforesaid, the petition is not entertained and the relevant assessee and its officers are left free to take appropriate steps in

78 -

accordance with law. It is also made clear that the writ petitioner firm in this case will be entitled to make a representation to the Department that the firm was not liable to make any payment under the order-in-original, whereupon the Department will surely look into the matter and the identity of the person or persons in control of the assessee and the persons in control of the writ petitioner firm.

9. WP (C) No. 213 of 2023 is dismissed.
10. There will be no order as to costs.
11. After the order is pronounced, it is pointed out on behalf of the Department, which had earlier not been called upon, that the submission on behalf of the writ petitioner that Bhalang Associates is a partnership firm is incorrect. According to the Department, Bhalang Associates is a proprietorship firm of Bhalang Singh Phanbuh, who is a partner of the writ petitioner herein and who has filed the present petition on behalf of the partnership firm.

Sd/-

(W. Diengdoh)  
Judge

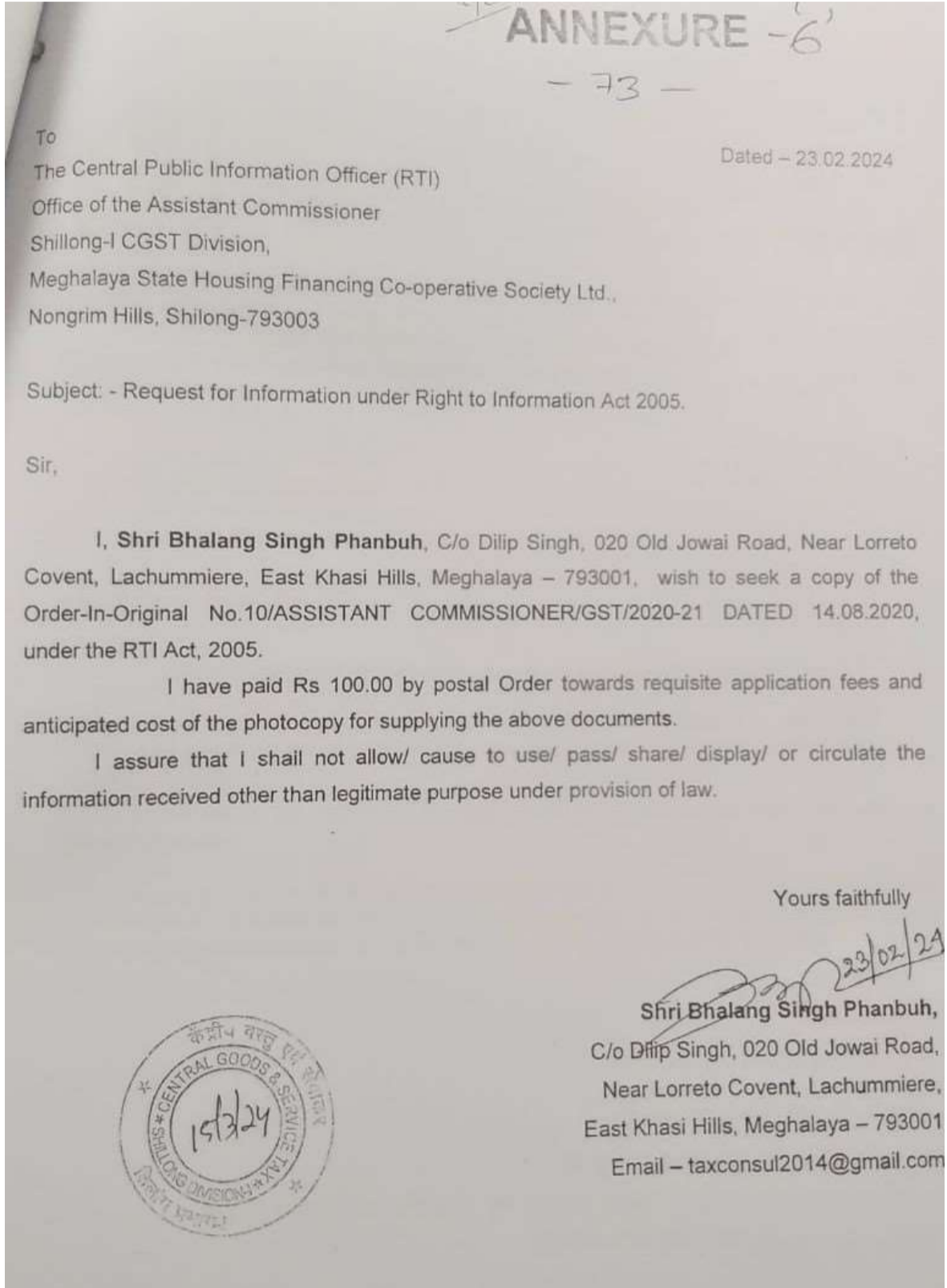
Sd/-

(Sanjib Banerjee)  
Chief Justice

**Service Tax Appeal No. 76611 of 2024**


14. The Hon. High Court has refused to fully interfere in this issue which is required to be taken up before the proper appellate forum. However, leave has been granted to the appellant to approach the proper authority for appeal.

15. After this, the appellant has filed an RTI application on 23.02.2024. In response to their RTI application, the Department has responded by letter dated 02.04.2024 enclosing therewith copy of the OIO No. 10 dated 14-08-2020, as can be seen from the following letters:


**Service Tax Appeal No. 76611 of 2024**

## Service Tax Appeal No. 76611 of 2024

**ANNEXURE - 7**  
ANNEXURE - 7  
- 74 -  
DIN: 20240470US000000C199



भारत सरकार  
Government of India  
वित्त मंत्रालय/राजस्व विभाग  
Ministry of Finance / Department of revenue  
सहायक आयुक्त कार्यालय / OFFICE OF THE ASSISTANT COMMISSIONER  
सीजीएसटी-शिलांग, डिवीजन-1/CGST Shillong, Division-1



राष्ट्र  
कर  
बाजार

2<sup>nd</sup> floor, Meghalaya State Housing Financing Co-operative Society Ltd.  
Nongrim Hills, Shillong - 793 003, Meghalaya  
Phone: 0364-2522969 / E-mail: uppershillongrange@gmail.com

---

**GEXCOM/RTI/APP/268/2024-CGST-DIV-1-SHG-COMMR-SHILLONG/031** Date: 02-04-2024

सेवा में / To,

Shri Bhalang Singh Phanbuh,  
C/o Dillip Singh, 020 Old Jowai Road,  
Near Lorreto Covent, Lachummiere,  
East Khasi Hills, Meghalaya- 793001

महोदया/महोदय Madam/Sir,

**Subject: - Request for Information under Right to Information Act-2005\_reg.**

Please refer to your RTI application dated 23-02-2024 received in this office on 15/03/2024 seeking a copy of Order-In-Original No. 10/ASSISTANT COMMISSIONER/GST/2020-21 dated 14-08-2020.

In this regard, the desired information/copy of OIO sought by you have been enclosed herewith this letter.

In case you are not satisfied with this reply, you may prefer an appeal within 30 (thirty) day from the date of receipt of this letter to the 1<sup>st</sup> Appellate Authority, Additional Commissioner, Goods & Services Tax Commissionerate, 3<sup>rd</sup> Floor, Crescens building, MG Road Shillong -793001.

Yours Sincerely

**Signed by Praveen Kumar  
Agrawal**  
Date: 02-04-2024 17:18:39

प्रवीन कुमार अग्रवाल/(Praveen Kumar Agrawal  
केन्द्रीय लोक सूचना अधिकारी और सहायक आयुक्त/CPIO & Assistant Commissioner  
सीजीएसटी शिलांग प्रभाग-1/CGST Shillong, Division-1

Copy to:

- The CPIO & Assistant Commissioner, CGST- Shillong Commissionerate, Crescens Building, MG Road, Shillong-793001

**Service Tax Appeal No. 76611 of 2024**

16. Thereafter, the appellant has filed the appeal before the Commissioner (Appeals) on 23.04.2024. If the follow up letters by the appellant seeking copy the OIO, High Court's order, RTI application and response to RTI are viewed harmoniously, it can be seen that the appellant has made all the efforts to get hold of the copy of the OIO. If they had really received the OIO, there was no necessity to knock the doors of the High Court, which would entail time, resources and money.

17. Once the OIO has been received by him on 02.04.2024, within one month from this date, they have filed their appeal before the Commissioner (Appeals). Therefore, I hold that the appellant has filed the appeal within the specified period which is available for filing the appeal before the Commissioner (Appeals). On this ground, the impugned order is set aside.

18. After going through the appeal papers and the documentary evidence placed before me, I find that the issue is in a short compass. Therefore, with the consent of both the sides, I have taken up the appeal itself for disposal.

19. It is observed that the Revenue has built up the entire case based on the Form 26-AS statement for the period 2014-15 to 2017-18. The details of the amounts and the name of the clients and the relevant TDS Section of the Income Tax is as per the following table:


**Service Tax Appeal No. 76611 of 2024**

Year	Name	Amount credited	TDS Section of Income Tax Act
2014-15	ABC India Ltd.	1895931	194C
	Amtit Hatcheries Pvt Ltd.	2218368	194IB
	HPCL	872379.4	194C
2015-16	ABC India Ltd.	851660	194C
	HPCL	1397561	194C
2016-17	HPCL	629236	194C
2017-18	HPCL	15400	194IB

20. From the above table, it is seen that in case of ABC India Ltd and HPCL up to 2016-17, the Income Tax Section shown is 194C. On going through the Section 194C, I find that this is applicable where the amounts are paid to the contractors or subcontractors carrying out any work for the clients. In such cases, the client should deduct the tax at source and the total amount paid vis-à-vis the tax deducted should be shown. I have also gone through the actual Form 26-AS attached by the appellant in the appeal paper. One sample Form 26-AS is reproduced below:

Service Tax Appeal No. 76611 of 2024

ANNEXURE - '10'  
-120-



**TDS**  
Centralized Processing Cell

**TRACES**  
TDS Reconciliation Analysis and Correction Enabling System

**Form 26AS**  
Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

Permanent Account Number (PAN) and second provision to Section 206C (2) of the Income Tax Act, 1961 and Rule 2(AR) of Income Tax Rules, 1962

Permanent Account Number (PAN)	BFNP5951R	Current Status of PAN	Active	Financial Year	2015-16	Assessment Year	2016-17
Name of Assessee	BHALANG SINGH PHANBUH						
Address of Assessee	C/O DILIP SINGH, 30 LACHUMIERE, PO SHILLONG GPO, EAST KHASI HILLS, MEGHALAYA, 793001						

\* Above data: Status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for correction. Refer www.in-nsdl.com / www.uitl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer.

Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above.

**PART A - Details of Tax Deducted at Source**

Sr. No.	Name of Deductor	TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted*	Total TDS Deposited			
<b>ABC INDIA LIMITED</b>								
		CALAG4089G	85160.00	0.00	0.00			
Sr. No.	Section*	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted**	TDS Deposited
1	194C	02-Sep-2015	F	08-Apr-2016	-	2309.00	0.00	0.00
2	194C	02-Sep-2015	F	08-Apr-2016	-	2500.00	0.00	0.00
3	194C	02-Sep-2015	F	08-Apr-2016	-	1000.00	0.00	0.00
4	194C	02-Sep-2015	F	08-Apr-2016	-	2521.00	0.00	0.00
5	194C	02-Sep-2015	F	08-Apr-2016	-	2525.00	0.00	0.00
6	194C	02-Sep-2015	F	08-Apr-2016	-	1104.00	0.00	0.00
7	194C	02-Sep-2015	F	08-Apr-2016	-	2300.00	0.00	0.00
8	194C	02-Sep-2015	F	08-Apr-2016	-	2701.00	0.00	0.00
9	194C	02-Sep-2015	F	08-Apr-2016	-	2300.00	0.00	0.00
10	194C	02-Sep-2015	F	08-Apr-2016	-	2000.00	0.00	0.00
11	194C	02-Sep-2015	F	08-Apr-2016	-	1500.00	0.00	0.00
12	194C	02-Sep-2015	F	08-Apr-2016	-	2000.00	0.00	0.00
13	194C	02-Sep-2015	F	08-Apr-2016	-	1676.00	0.00	0.00
14	194C	02-Sep-2015	F	08-Apr-2016	-	2000.00	0.00	0.00
15	194C	02-Sep-2015	F	08-Apr-2016	-	2000.00	0.00	0.00
16	194C	02-Sep-2015	F	08-Apr-2016	-	8350.00	0.00	0.00
17	194C	02-Sep-2015	F	08-Apr-2016	-	2400.00	0.00	0.00
18	194C	02-Sep-2015	F	08-Apr-2016	-	1400.00	0.00	0.00
19	194C	02-Sep-2015	F	08-Apr-2016	-	1000.00	0.00	0.00
20	194C	02-Sep-2015	F	08-Apr-2016	-	100.00	0.00	0.00
21	194C	02-Sep-2015	F	08-Apr-2016	-	1630.00	0.00	0.00
22	194C	02-Sep-2015	F	08-Apr-2016	-	2380.00	0.00	0.00
23	194C	02-Sep-2015	F	08-Apr-2016	-	1211.00	0.00	0.00
24	194C	02-Sep-2015	F	08-Apr-2016	-	100.00	0.00	0.00
25	194C	02-Sep-2015	F	08-Apr-2016	-	2213.00	0.00	0.00
26	194C	02-Sep-2015	F	08-Apr-2016	-	300.00	0.00	0.00
27	194C	02-Sep-2015	F	08-Apr-2016	-	2592.00	0.00	0.00
28	194C	02-Sep-2015	F	08-Apr-2016	-	2363.00	0.00	0.00
29	194C	02-Sep-2015	F	08-Apr-2016	-	1904.00	0.00	0.00
30	194C	02-Sep-2015	F	08-Apr-2016	-	2500.00	0.00	0.00
31	194C	02-Sep-2015	F	08-Apr-2016	-	2509.00	0.00	0.00
32	194C	02-Sep-2015	F	08-Apr-2016	-	2429.00	0.00	0.00
33	194C	02-Sep-2015	F	08-Apr-2016	-	2500.00	0.00	0.00
34	194C	02-Sep-2015	F	08-Apr-2016	-	1000.00	0.00	0.00
35	194C	02-Sep-2015	F	08-Apr-2016	-	1000.00	0.00	0.00
36	194C	02-Sep-2015	F	08-Apr-2016	-	1300.00	0.00	0.00
37	194C	02-Sep-2015	F	08-Apr-2016	-	2343.00	0.00	0.00
38	194C	02-Sep-2015	F	08-Apr-2016	-	1700.00	0.00	0.00
39	194C	02-Sep-2015	F	08-Apr-2016	-	1539.00	0.00	0.00
40	194C	02-Sep-2015	F	08-Apr-2016	-	2309.00	0.00	0.00

**Service Tax Appeal No. 76611 of 2024**

21. From the above statement, it can be seen that ABC India has paid Rs.8,51,660/- and has not deducted any TDS from the appellant. The statement very clearly shows that this is a case where the appellant has received the consideration from ABC India Ltd and this is not the case where the appellant has paid the amount to ABC India Ltd. Therefore, I do not subscribe to the submissions made by the appellant that this is a case where the amount shown in Form 26-AS is the amount paid by the appellant to ABC India Ltd. Therefore, in respect of the amounts shown under Section 194C, the appellant has no case on merits.

22. Coming to the two entries under TDS Section 194-IB, it is seen that this is on account of TDS to be deducted by the lessee when the premises are taken on rent. The amount shown in Form 26-AS is in respect of the following amounts:

2014-15	Amrit Hatcheries Pvt Ltd.	2218368	194IB
---------	---------------------------	---------	-------

2017-18	HPCL	15400	194IB
---------	------	-------	-------

23. Under this Section 194IB, TDS is deducted by the person, who is paying the rent to the lessor. In this case, it looks like the appellant has given premises on lease to Amrit Hatcheries and HPCL, for which they have paid the consideration. In respect of Amrit Hatcheries, the appellant has taken the stand that the same has been given for poultry / dairy activities, which is exempted from payment of Service Tax. No proper evidence has been enclosed in the appeal to support his

**Service Tax Appeal No. 76611 of 2024**

contention. Therefore, I take the view that no proper defence has been made out by the appellant on merits on this issue.

24. Now, I take up the issue of the time bar as has been canvassed by the appellant.

25. From the records, it is very clear that the Show Cause Notice has been issued purely based on the Form 26-AS details. No further enquiries have been made as to what kind of service was rendered by the appellant to HPCL and others. From the SCN, it is observed that the appellant is registered with S T Regn No.BFNPS8953RSD001. A query towards 2014-15 turnover was raised about the Service Tax payment on 22.11.2016 [RUD-1], for which the appellant has filed his reply on 28.11.2016 [RUD-2] and has given the details of Rs.8,02,798 towards the Service Tax paid by him. Thereafter no action was taken by the Department. After about 3 years on 16.10.2019, subsequent enquires have been made from the appellant. Finally, the SCN has been issued on 08.11.2019 solely based on the consideration shown in the Form 26 AS of Income Tax as has been observed from the Table discussed above.

26. The Tribunals have been consistently holding that when the Show Cause Notice is issued purely based on the Form 26-AS Income Tax returns without any proper corroborative evidence towards the service

**Service Tax Appeal No. 76611 of 2024**

provided, the same is not legally sustainable. I have for reference the following case laws:

**Homeopathic Medical Publishers  
Vs Commissioner of CGST & Central Excise  
FINAL ORDER NO: \_86910/2025 dated 25/11/2025**

3. Learned Chartered Accountant also placed reliance on the decision of Hon'ble High Court of Gujarat in **Nimeshbhai Gunvant bhai Patel v. Union of India [(2024) 25 Centax 122 (Guj)]** and several decisions of the Tribunal invalidating proceedings commenced with no allegation other than discrepancy between returns filed under the Finance Act, 1994 and under Income Tax Act, 1961 respectively. Relying upon the decision of the Hon'ble High Court of Madras, in Commissioner of Customs (Imports), Chennai v. Flemingo (DFS) Pvt Ltd [2010 (251) ELT 348 (Mad)], and of the Tribunal, in Shubham Electricals v. Commissioner of Central Excise & Service Tax, Rohtak [2015 (40) STR 1034 (Tri.-Del.)], it was submitted that proceedings initiated by show cause notice which did not lay out specific identification of chargeability to levy on identified taxable activity was invalid in law.

6. It would appear that the initiation of recovery proceedings under section 73 of Finance Act, 1994 solely on the basis of information received from third parties was so rampant and undesirable that the Central Board of Indirect Taxes & Customs (CBIC), vide **circular dated 26th October 2021**, instructed that :

'2. In this regard, the undersigned is directed to inform that CBIC vide instructions dated 01.04.2021 and 23.04.2021 issued vide F.No.137/472020-ST, has directed the field formations that while analysing ITR-TDS data received from Income Tax, a reconciliation statement has to be sought from the taxpayer for the difference and whether the service income earned by them for the corresponding period is attributable to any of the negative list services specified in Section 66D of the Finance Act, 1994 or exempt from payment of Service Tax, due to any reason. It was further reiterated that demand notices may not be issued indiscriminately based on the difference

**Service Tax Appeal No. 76611 of 2024**

between the ITR-TDS taxable value and the taxable value in Service Tax Returns.

3. It is once again reiterated that instructions of the Board to issue show cause notices based on the difference in ITR-TDS data and service tax returns only after proper verification of facts, may be followed diligently. Pr. Chief Commissioner /Chief Commissioner (s) may devise a suitable mechanism to monitor and prevent issue of indiscriminate show cause notices. Needless to mention that in all such cases where the notices have already been issued, adjudicating authorities are expected to pass a judicious order after proper appreciation of facts and submission of the noticee.'

7. The Hon'ble High Court of Gujarat, in re Nimeshbhai Gunvant bhai Patel, has held, in like circumstances and after narration of reconciliation offered by assessee, that

'16. ...Therefore, considering the facts on record it is evident that the petitioner was not at all liable for service tax and therespondent authorities could not have assume the jurisdiction to issue the show cause notice on the basis of the data provided by the Income Tax Department in Form-26AS and thereafter failed to consider the details provided by the petitioner in reply to the show cause notice.

17. It is also pertinent to note that no justification is given in the impugned show cause notice as well as the order-in-original for assumption of jurisdiction by invoking extended period of 5 years under the proviso to subsection-1 of section 73 of the Finance Act, 1994.

18. In view of the foregoing reasons, the impugned show cause notice is not tenable as the same is issued without jurisdiction and consequently the order-in-original also wouldn't survive....'

8. In view of our findings supra and the decisions aforesaid, the lack of allegation in the show cause notice, that any, or even part, of the impugned income was not attributable to any of the claimed activities, places the invoking of section 73 of Finance Act, 1994 in jeopardy at the threshold itself. It would

**Service Tax Appeal No. 76611 of 2024**

appear that the adjudicating authority was influenced almost entirely by the additional income reported in returns prescribed in another jurisdiction.

9. In view of the above, we set aside the impugned order and allow the appeal.

**Tabassum Enterprises vs.**

**CGST & CX**

**Final Order No.75452/2025 dated 19.09.2025 (Service Tax Appeal No.75037 of 2025)**

“5. I find that the present demand has been raised and confirmed on the basis of data provided by the Central Board of Direct Taxes (CBDT). It is observed that the said demand has been confirmed without the support of any independent or corroborative evidence from the Service Tax records. Such mechanical reliance on Income Tax data, without verification of the nature of receipts or proof of taxable services rendered, is impermissible in law. It is a settled legal position that mere entries in income tax returns or Form 26AS cannot, by themselves, establish liability under the Finance Act, 1994, unless corroborated by evidence demonstrating rendition of taxable service.

5.1. In support of this view, I rely upon the decision in the case of M/s. Rishu Enterprise vs Commissioner of C.G.S.T. & Excise, Dibrugarh, in Final Order No. 75177 of 2024 dated 08.02.2024 in Service Tax Appeal No. 75509 of 2022 [CESTAT, Kolkata], wherein this Tribunal has observed as under: -

“8. In view of the judicial pronouncement of this Tribunal, we hold that merely on the basis of Form 26-AS issued by the Income Tax Department, the demand of Service Tax is not sustainable against the appellant.

.....

11. In view of this, we hold that the impugned demand is not sustainable against the appellant on the basis of the details provided by the Income Tax Department in Form 26AS and the extended period of limitation is not invocable.”

**Service Tax Appeal No. 76611 of 2024**

5.2. The same view has been held by the **Tribunal at Allahabad** in the case of *M/s. Quest Engineers & Consultant Pvt. Ltd. v. Commissioner of C.G.S.T. & C.Ex., Allahabad* [2022 (58) G.S.T.L. 345 (Tri. – All.)] observing as follows: -

“12. .... We further find that Form No. 26AS is not a statutory document for determining the taxable turnover under the Service Tax provisions. We find that Form No. 26AS is maintained on cash/ receipt basis by the Income Tax Department for the purpose of tax deducted at source, etc. being the relevant data for Income Tax. Whereas under the Service Tax provisions, the service tax is chargeable on mercantile basis (accrual basis) on the service provided whether the value of such service is received or not. Thus, we find that the whole basis of show cause notice is incorrect and/or misconceived.”

5.6. Following the ratio of the decisions cited supra, I hold that the demand of service tax confirmed in the impugned order, solely relying the data received from CBDT, without adducing corroborative evidence in support, cannot be sustained. Thus, I observe that the demand confirmed in the impugned order is liable to be set aside on this ground itself.”

27. The above cases show that the High Court and co-ordinate Benches of the Tribunals have been consistently holding that when the SCN is issued solely on the basis of 26AS / Income Tax Returns by invoking the extended period provisions, without any proper verification and investigation, the demand cannot legally survive. In the present case, not only the SCN was issued by relying on 26AS, but also

**Service Tax Appeal No. 76611 of 2024**

Revenue has not been able to explain as to why there is a delay of about 3 years to even make a query from a registered assessee.

28. I take the view that the ratios laid down in the cited case laws are squarely applicable. Accordingly, I set aside the confirmed demand on account of limitation.

29. The appeal stands allowed. The appellant would be eligible for consequential relief, if any, as per law.

(Pronounced in the open court on...07.07.2026..)

Sd/-  
**(R. Muralidhar)**  
**Member (Judicial)**

Tushar Kr.