109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CEA-3-2026 (O&M)
Date of Decision:02.07.2026

SANJAY VERMA

…..APPELLANT(S)

VERSUS

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX

….RESPONDENT(S)

CORAM:- HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Mukesh Pandey, Advocate
for the applicant-appellant.

Ms. Ridhi Bansal, Advocate
for the respondents.

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ASHWANI KUMAR MISHRA, A.C.J. *(Oral)*

CM-3937-CII-2026 (delay)

1. This application under Section 151 CPC has been filed on behalf of the applicant-appellant seeking condonation of delay of 04 days in filing the instant appeal.

2. For the reasons mentioned in the application, the same is **allowed** and delay of 04 days in filing the present appeal stands condoned.

Main Case (O&M)

3. This Central Excise Appeal (*CEA*) is directed against an order passed by the Customs, Excise and Service Tax Appellate Tribunal (for short, the '***Tribunal***') dated 26.06.2025, whereby the appeal filed by

the appellant has been dismissed.

4. In order to appreciate the legality of the order passed by the Tribunal, the undisputed facts of the case require narration at the outset.

5. Undisputedly, the appellant is engaged in providing architectural services and is registered with the Service Tax Department. The appellant has been filing regular ST-3 returns showing the turnover to be zero. The data was shared with the Income Tax Department as per Form 26AS. It was revealed that during the period 2015-2016, the appellant had received an amount of Rs.86,21,611/- towards rendering services, on which TDS had been deducted by the service recipient. This fact, however, was suppressed by the appellant while submitting returns before the Service Tax Department. When these facts came to the notice of the Department, it issued two letters to the appellant on 01.12.2020 and 17.12.2020 calling upon him to clarify the position in this regard, but the same were not responded to. Thereafter, a Show Cause Notice (for short, '***SCN'***) was issued to the appellant by invoking the extended period of limitation. Pursuant to the SCN dated 30.12.2020 also, the appellant did not appear.

6. As per the prescribed procedure, an opportunity of hearing had to be afforded to the appellant. The first notice affording an opportunity of hearing to the appellant was issued on 19.02.2021, but even on the date so fixed, the appellant did not appear. A subsequent notice was then issued on 03.12.2021, which also met the same fate. The last notice issued to the appellant is dated 18.01.2022, requiring him to

appear on 24.01.2022. It was at this belated stage that a reply was submitted by the appellant on 24.01.2022. The authority concerned examined the matter and passed the order-in-original on 29.04.2022. This order is primarily assailed on the ground that the invocation of the extended period of limitation was bad in law and that the competent authority was required to pass the order-in-original within a period of one year from the issuance of the SCN. Since the order was passed beyond such period, it is contended that in law, it ought to be treated as invalid.

7. This plea of the appellant has not found favour with either the appellate authority or the Tribunal. Aggrieved thereby, the appellant is before us.

8. Learned counsel for the appellant places reliance on the provisions of Section 73(4B) of the Finance Act, 1994 (for short, the '***Act of 1994***'), whereby Section 11 of the Central Excise Act has been amended. Section 73(4B) reads as under:-

> *"**(4B)** The Central Excise Officer shall determine the amount of service tax due under sub-section (2)-*
> *(a) within six months from the date of notice where it is possible to do so, in respect of cases falling under sub-section (1);*
> *(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A)"*

9. It is submitted that since the order itself was passed beyond the period of one year, the order is rendered illegal, and the contrary view taken is unsustainable.

10. In support of such plea, the appellant has placed reliance upon the decision of the CESTAT, Principal Bench, New Delhi, in the case of ***Kopertek Metals Pvt. Ltd. vs. Commissioner of CGST (West), New Delhi, (2025) 29 Centax 28 (Tri.-Del.)*** dated 25.11.2024, whereby the Tribunal interpreted a similar provision to hold that an order passed by the adjudicating authority beyond the prescribed period of limitation is bad in law.

11. This judgment has been challenged by the Union of India before the Hon'ble Supreme Court of India. The Supreme Court has observed that looking into the larger issue involved in the matter, the hearing of such matters before other Tribunals or High Courts be deferred.

12. Relying upon the said observation, learned counsel for the appellant submits that the present appeal merits consideration and that the impugned orders are liable to be set aside.

13. Learned counsel for the respondent, on the other hand, submits that, in the peculiar facts of the case, the appellant cannot be permitted to take advantage of his own wrong in dragging the proceedings before the adjudicating authority, and if such a claim of the appellant is accepted, it would amount to putting a premium on the appellant's own default.

14. The facts, as noticed above, are not in dispute.

15. It is undisputed that the appellant is registered under the Service Tax Act and has been submitting returns showing no turnover. It

is also undisputed that in the returns submitted before the Income Tax Authorities, an income of Rs.86,21,611/- was shown during the Assessment Year 2015-2016. It is on this factual premise that the appellant was confronted with these facts and his explanation was sought vide notice dated 01.12.2020. When this notice was not responded to by the appellant, a reminder was sent on 17.12.2020. Since no reply was submitted despite these two notices, the SCN came to be issued on 30.12.2020.

16. Learned counsel for the appellant, at the time of hearing of the present matter, has confined his grievance only to the extent of passing of the order by the adjudicating authority beyond a period of one year from the date of issuance of the SCN. It is submitted that since the SCN was issued on 30.12.2020, the order by the adjudicating authority could, at best, have been passed by 01.12.2021 and not thereafter.

17. The plea raised in this regard cannot be accepted inasmuch as the provision contained in the Act of 1994 is intended to ensure that the proceedings initiated by the Central Excise authorities are concluded without unnecessary delay. It is for this purpose that a period of limitation has been prescribed under Section 73(4B) of the Act of 1994. The language employed in Section 73(4B) of the Act of 1994 is important and clearly reflects the legislative intent behind introducing a period of limitation for the disposal of such matters. The provision categorically uses the expression '***where it is possible to do so***' while prescribing that in respect of cases falling under sub-section (1), the order shall be passed

within six months from the date of notice and, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A), within one year from the date of notice.

18. The intendment is clearly to curb executive lethargy in concluding proceedings initiated in accordance with law. The provision is not intended to be used as a thumb rule preventing the Central Excise authorities from passing orders despite the existence of justifiable reasons for the delay occasioned in this regard.

19. In the facts of the present case, it is undisputed that the Department issued repeated notices to the appellant, which were not responded to. The first notice of personal hearing was issued on 19.02.2021, which was not responded to. The second notice dated 03.12.2021 was also not replied. It was only in response to the last notice dated 18.01.2022 that the appellant submitted a reply on 24.01.2022. Within three months of the submission of such reply, the order-in-original was passed.

20. We, therefore, do not find any delay or laches of the nature intended to be curtailed by the statutory scheme. On the facts of the present case, we do not find any violation of the period of limitation prescribed under Section 73(4B) of the Act of 1994 so as to warrant interference in the present matter.

21. In such view of the matter, we find no merit in the present appeal, which is accordingly ***dismissed*** at the stage of admission itself.

22. All pending miscellaneous application(s), if any, shall also

stand disposed of.

[ASHWANI KUMAR MISHRA]
ACTING CHIEF JUSTICE

[ROHIT KAPOOR]
JUDGE

JULY 02, 2026
Rahul Joshi

1. Whether Speaking/reasoned Yes/No
2. Whether Reportable Yes/No