CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70251 of 2022

(Arising out of Order-in-Appeal No.361/ST/ALLD/2021 dated 02.12.2021 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s J. P. Logistics, **.....Appellant**
(Shri Manav Verma,
518, Kandhari Bazar, Rekabganj, Faizabad-224001)

VERSUS

Commissioner of Central Excise &
CGST, Allahabad **....Respondent**
(Allahabad)

WITH

Service Tax Appeal No.70831 of 2025

(Arising out of Order-in-Appeal No.97/ST/APPL/ALLD/2025 dated 26.06.2025 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s J. P. Logistics, **.....Appellant**
(Shri Manav Verma,
518, Kandhari Bazar, Rekabganj, Faizabad-224001)

VERSUS

Commissioner of Central Excise &
CGST, Allahabad **....Respondent**
(Allahabad)

APPEARANCE:

Shri Kartikeya Narain, Advocate for the Appellant
Shri Manish Raj, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs.- 70275-70276/2026

DATE OF HEARING : 07.07.2026
DATE OF PRONOUNCEMENT : 12.08.2026

P. K. CHOUDHARY:

M/s. J.P. Logistics (Prop: Manav Verma), has filed **Service Tax Appeal No.70251/2022** for setting aside the Order-in Appeal No.361/ST/Alld/2021 dated 02.12.2021 passed by Commissioner (Appeals), CGST & Service Tax, Allahabad by which the appeal was partly allowed and remaining demand of Service Tax has been confirmed under the proviso to Section 73(1) of the Finance Act, 1994 with interest and penalty. **Service Tax Appeal No.70831/2025** has been filed by the Appellant to assail the same in Order-in-Appeal No.97/ST/Appl/Alld/2025 dated 26.06.2025 passed by Commissioner (Appeal), CGST & Service Tax, Allahabad by which the appeal was rejected and the demand of Service Tax has been confirmed under the proviso to Section 73(1) of the Finance Act, 1994 with interest and penalty. The details of the two Service Tax Appeals are as follows:-

Appeal No.	**ST/70251/2022**	**ST/70831/2025**
Impugned Order No. & Date	**361/ST/Alld/2021 Dt:02.12.2021**	**97/ST/Appl/Alld/2025 Dt:26.06.2025**
Show Cause Notice Date	**24.10.2019**	**06.07.2021**
Period of dispute	**April,2014 to March, 2015**	**April,2015 to June,2017**
Service Tax Demand	**Rs.17,60,474/-**	**Rs.98,72,561/-**

2. As the Appellant is common in both the appeals and the issues involved are identical, it is considered appropriate to dispose of both the appeals by this common order.

3. Briefly stated, the facts of the case are that the Appellant had taken Service Tax registration as a service provider for "Clearing and forwarding Agent Services" in the name of "M/s. J.P. Logistics" and providing GTA services in the name of "M/s. Trident Perishable Food Carriers" Proprietor : Shri Manav Verma with the same PAN. The Service Tax Registration of Appellant is AAJPV5363NSD002.

4. Since "Clearing and Forwarding Agent Services" are taxable so the Appellant charged Service Tax from the service receiver and deposited to the revenue and filed ST-3 Returns on time and the Appellant was under the *bona fide* belief that the GTA service comes under reverse charge so the Appellant never charged any Service Tax from the service receiver nor deposited to the revenue. On the basis of third-party data received from

the Income Tax Department, under the data sharing protocol, showing the receipts of Rs.2,44,94,202/- and in ST-3 the value was shown at Rs.32,25,284/-. The difference in value shown is Rs.2,12,68,918/- for the period F.Y 2014-15 . On the aforesaid facts the Show Cause Notice[1] dated 24.10.2019 was issued proposing to demand Service Tax as under:-

Financial Year	**Total amount Paid/credited as per 26AS**	**Gross value as per ST-3 Returns**	**Difference value**	**S.Tax Payable @12.36 %**	**Party is liable to pay S.T. on differential amount**
2014-15	**2,44,94,202**	**32,25,284**	**2,12,68,918**	**26,28,838**	**26,28,838**

5. Thereafter, the Department issued a subsequent SCN dated 06.07.2021 covering the period from April, 2015 to June, 2017, proposing the following demand of Service Tax as under:-

Financial Year	**Total amount Paid/credited as per 26AS**	**Gross value as per ST-3 Returns**	**Difference value**	**S.Tax already paid by the party**	**Party is liable to pay S.T. on differential amount**
April,15 to June,2017	**8,01,89,122**	**77,74,187**	**7,24,14,935**	**18,39,101**	**98,72,561**

6. The Appellant contested the allegations contained in the SCN by filing its reply, contending, inter alia, that demand of Service Tax on the basis of the values taken directly from the Form-26AS Statement was not justified in law.

7. The aforesaid submissions, however, were not accepted by the Adjudicating Authority. Consequently, for the period 2014–15, vide Order-in-Original dated 25.02.2021, and for the period from April, 2015 to June, 2017, vide Order-in-Original dated 29.02.2024, the demands proposed in the respective SCNs were confirmed. The Adjudicating Authority also imposed a penalty

[1] SCN

equal to the Service Tax demand under Section 78 of the Finance Act, 1994, along with penalties under Sections 77(1)(a) and 77(1)(c) of the Finance Act, 1994. Further, a penalty of Rs.87,000/- under Section 70 of the Finance Act, 1994 was also imposed for the alleged failure to comply with the statutory filing requirements.

8. Being aggrieved by the Order-in-Original, the Appellant preferred an appeal before the Commissioner (Appeals), Allahabad. The learned Commissioner (Appeals), vide Order-in-Appeal dated 02.12.2021 for the financial year 2014–15, partly allowed the appeal. The Commissioner (Appeals), upon examining the Agreement entered into with M/s. Mother Dairy, held that the services rendered by the Appellant thereunder were classifiable as Goods Transport Agency[2] Services. However, the Commissioner (Appeals) declined to extend the same finding to the services provided to M/s. Vadilal, holding that such services did not fall within the ambit of GTA Services. Consequently, the Service Tax demand was reduced from Rs.26,28,838/- to Rs.17,60,474/-.

9. The other appeal for the period April, 2015 to June, 2017 was rejected vide Order-in-Appeal dated 26.06.2025, without granting any relief to the Appellant. The Appellant is therefore before us by way of these two appeals.

10. Sri Kartikeya Narain, learned Counsel for the Appellant, submitted that the Appellant had duly discharged the Service Tax liability on all its taxable services, namely, Clearing and Forwarding Agent Services, and had regularly filed the prescribed ST-3 Returns. He further submitted that the Appellant was under a *bona fide* belief that the services provided as a GTA were covered under the reverse charge mechanism. Accordingly, the Appellant neither collected Service Tax from the Service Recipients nor deposited the same with the Revenue.

11. Learned Counsel further invited our attention to the Agreement executed with M/s. Vadilal. Referring to Annexure-A, Clause 10 of the Agreement, he submitted that it specifically

[2] GTA

provides: "**Company will consider vehicle capacity on the basis of Vadilal Big Tray and the per kilometre rate shall vary on the basis of tray capacity.**" According to him, the said clause clearly establishes that the consideration under the agreement was not determined solely on the basis of the Kilometre, but was also dependent upon the carrying capacity of the vehicle, thereby evidencing that the transportation of goods was the essential nature of the service.

12. Learned Counsel further invited our attention to the Agreement executed with M/s. Mother Dairy Ltd. Referring to point No.13, which says that "The taxes, levies and other duties payable by the transporter **(excluding service** tax) under the law shall be borne by the transporter only." And point No.3.5 relates to payment of bills. In this point it's clearly mentioned that ***bills are supported by goods receipt/stock transfer orders/Invoice/gate pass indicating temperature and quality of goods at the time of receipt/date logger reports or any other documents asked by the company from time to time.*** From this point the learned Commissioner (Appeals), vide Order-in-Appeal dated 02.12.2021, accepted as GTA service provided by the Appellant.

13. He further submitted that Certificates issued by M/s. Mother Dairy Ltd., M/s. Vadilal Industries Ltd. and M/s. Vadilal Enterprises Ltd. categorically certify that they had received GTA services from the Appellant and had discharged the applicable Service Tax under the Reverse Charge Mechanism[3]. These certificates were also placed on record before the lower Authorities; however, the same were not properly appreciated while passing the impugned orders.

14. The learned Counsel for the Appellant further submitted that the entire proceedings have been initiated solely on the basis of third-party information received from the Income Tax Department. No independent verification of Books of Accounts, invoices or nature of transactions was conducted by the Department before alleging tax liability. Demand arises merely

[3] RCM

on presumptions, assumptions and Income Tax data and is thus, legally unsustainable. Reliance was placed on the following decisions: -

a) M/s A.P. Construction & Suppliers Vs. Commissioner of Central Excise & CGST, Noida 2026 (2) TMI 527-CESTAT Allahabad; (Being Service Tax Appeal No.70624 of 2025 in Final Order No.70002/2026 dated 07.01.2026).

b) M/s Mamta Advertisers Vs. Commissioner of Central Excise & Service Tax, Lucknow 2025 (7) TMI 1143 - CESTAT ALLAHABAD; (Being Service Tax Appeal No.70214 of 2024 in Final Order No.70499/2025 dated 18.07.2025).

15. Ld. Authorized Representative for the Revenue reiterated the findings recorded in the impugned order and prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

16. Heard both the sides and perused the appeal records.

17. Having considered the rival submissions and upon careful perusal of the records available before us, we find that the first issue requiring determination is whether the Appellant, by issuing bills instead of consignment notes, can be denied the benefit of classification of the services rendered as GTA Services. Section 65(50b) of the Finance Act, 1994 defines "Goods Transport Agency" as under:-

> *"**Goods Transport Agency**" means any person who provides service in relation to transport of goods by road and issues a consignment note, by whatever name called."*

A plain reading of the above definition shows that the statute does not prescribe any particular format or nomenclature for a consignment note. The expression "by whatever name called" makes it abundantly clear that the document issued by the service provider need not necessarily be titled as a "consignment note." What is material is the substance and contents of the document evidencing the transportation of goods. Therefore, merely because the Appellant issued bills instead of documents specifically titled as "consignment notes," the services rendered cannot be denied classification as Goods Transport Agency (GTA) Services. If the bills issued by the Appellant contain the essential particulars of a consignment note and acknowledge the transportation of goods, such bills are liable to be treated as consignment notes within the meaning of Section 65(50b) of the Finance Act, 1994.

18. We further find that the service recipients have issued certificates categorically certifying that they had received GTA Services from the Appellant during the relevant period and had discharged the applicable Service Tax under the RCM. In our considered view, such certificates constitute cogent and reliable evidence to establish that the Appellant had indeed provided GTA Services during the relevant period. The issue is no longer *res integra* and stands squarely covered by the decision of this Tribunal in M/s. Airvision India Private Ltd. vs. Commissioner of Central Excise, Noida, Final Order No. ST/A/70406/2018-CU[DB] dated 13.02.2018, wherein it was held that:-

> *"Certificate given for GTA on its letterhead is sufficient and a certificate on each consignment note is not required."*

19. We note that it was held by this Tribunal in the case of ***M.L. Agro Products Ltd. vs. Commissioner of Cus., C.Ex. & S.T., Guntur 2017 (6) G.S.T.L. 94*** wherein it was held as under:-

> ***"6.3****After hearing both sides, it appears that the main plea of the assessees on this issue is that no consignment notes have been raised. They have relied upon the ratio in the case of South Eastern Coal Fields Ltd. v. CCE, Raipur [2016 (41) S.T.R. 636 (Tri.-Del.)] where issue of consignment note has been held as a non-derogable ingredient for falling under GTA. But the fact remains that consignment notes can be issued in any form, as seen from definition of GTA in Section 65(50)(b) of the Finance Act, 1994; "goods transport agency" means any person who provides service in relation to transport of goods and issues consignment note, by whatever name called (emphasis added). In the Appeal No. ST/341/2011, sample*

> *vouchers/invoices have been made available, where the truck number, amount and load have been described. In the instant cases, the assessees are the service recipients for which they are paying the freight charges. When it is so, then we are of the view that the Department has rightly applied GTA and demanded the service tax for the reason that without an accompanying paper/document, goods cannot be received without which is the basis of amount for payment. This is also the view taken by the Tribunal in U.P. State Sugar Corporation v. CCE, Meerut-II [2011 (24) S.T.R. 423 (Tri.-Del.), it would be worthy of reproducing relevant portion of the Tribunal's finding herein below :*
>
> > *"4. Ld. DR on the other hand, supports the order of the authorities below. When we find that the first Appellate Authority appears to have rightly understood the matter in controversy, there is no quarrel on the consignment note to give any interim relief to the appellant. Consignment note may not necessarily be in any format since no such format is prescribed under law but the documents accompanying the goods identifying the consignor and consignee, route of consignment enable to construe what a consignment note is and the appellant's grievance that the consignment note was mandatory does not find support of law when fact and circumstances demonstrate route of goods moved disclosing identity of consignor and consignee and goods consigned."*
>
> *Hence, we find no reason to interfere with the orders where service tax has been demanded under GTA. The same is sustained. On this point, the concerned appeals are dismissed."*

20. Applying the ratio of the aforesaid decisions to the facts of the present case, we hold that the certificates issued by the service recipients are sufficient to establish that the Appellant had rendered GTA Services during the relevant period. Consequently, the denial of the benefit merely on the ground that the Appellant had issued bills instead of documents titled as consignment notes is unsustainable.

21. We now proceed to take up the issue of limitation raised by the Appellant. We find that the entire demand has been initiated on the basis of third-party information received from the Income Tax Department and the entire demand is based on difference in ST-3 Return and Form-26AS and that the demand is raised without examination of the Books of Accounts and therefore, the said demand is bad in law. It has been held by the Tribunal in the case of **M/s Quest Engineers & Consultant Pvt. Ltd. Vs. Commissioner, CGST & Central Excise, Allahabad reported in 2022 (58) G.S.T.L. 345 (Tri-All)** that Form-26AS maintained by the Income Tax Department is not a statutory document for determining taxable turnover for service tax purposes in as much as the entire basis of form 26AS and service tax payment are different. Accordingly, the impugned order confirming service tax demand on the basis of payment released by the service recipients is bad in law and the same is not sustainable. Further, We find that the Appellant has been regularly filing the ST-3 returns and was issued the SCNs consecutively for the year 2015-16, 2016-17 & 2017-18 (till June, 2017).We also find that all the necessary information were available to the Department on the basis of which first SCN was issued, and the Department should have issued the subsequent SCN for the normal period and thus a subsequent SCN invoking the extended period of limitation alleging suppression of facts is not sustainable. The Ld. Commissioner (Appeals) has not addressed this issue of limitation in his order and it is totally silent on limitation. We also find that the Hon'ble Supreme Court, Hon'ble High Courts and the Tribunal have already examined this issue time and again and held that allegation of suppression of facts against the assessee could not be sustained if all the relevant facts were in the knowledge of the Department. We also find that the Appellant was regularly filing ST-3 returns and therefore while issuing second SCN, the same/similar facts could not be taken as suppression of facts on the part of the Appellant as these facts were already in the knowledge of the Authority.

22. In view of the above discussions, it is evident that there would be no suppression of facts on the part of assessee if the facts were already in the knowledge of the Department when the first SCN was issued. We find that the demand raised by invoking the longer period of limitation is solely based upon the Profit & Loss Account, Balance Sheet and Form-26AS submitted with the Income Tax Authorities which has consistently been held to be as not proper by the Tribunal in various decisions. Reference stands made to the decision of Hon'ble Madras High Court in the case of M/s Firm Foundation and Housing Pvt. Ltd. vs. Principal Commissioner of Service Tax, Chennai (Mad) pronounced on 06.04.2018 in Writ Petition No.21799 of 2017/ [2018 (16) G.S.T.L. 209 (Mad.)], as also to the Tribunal's decision in the case of M/s Sigma Trade Wings vs. Commissioner of Central Excise, Lucknow, Final Order No.70049 of 2019 dated 07.01.2019. It stands held in both the above decisions that the Revenue's reliance upon Profit & Loss Account and Form-26As are irrelevant for the purpose of confirmation of tax. Inasmuch as, the Revenue's entire case is based upon the Profit & Loss Accounts and Balance Sheet and the Service Tax stands confirmed by invoking the longer period of limitation. It is our considered view that the impugned order of learned Commissioner (Appeals) is not sustainable on limitation itself.

23. In view of the above findings, the impugned orders are set aside. Both the appeals filed by the Appellant are allowed with consequential relief, as per law.

(Order pronounced in open court on - **12.08.2026**)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

LKS