

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

**Service Tax Appeal No. 75146 of 2023**

(Arising out of Order-in-Original No. 01/JC/CGST &CX/North/Kol/2020-21 dated 05.10.2020 passed by the Commissioner of CGST & CX Kolkata North Commissionerate GST Bhawan 180, Shantipally, Rajdanga Main Road, Kolkata-700107)

**M/s. Indian Chamber of Commerce**

4, India Exchange Place Kolkata-700 001

**: Appellant**

**VERSUS**

**The Commissioner of CGST & CX,(Appeal-I),  
Kolkata**

GST Bhawan 180, Shantipally, Rajdanga Main Road, Kolkata-700107

**: Respondent**

**APPEARANCE:**

Shri Vikram Khaitan, C.A. for the Appellant

Shri S. Chitkara & P. Halder, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO.76310/ 2026**

DATE OF HEARING: 23.09.2026

DATE OF PRONOUNCEMENT: 29.09.2026

**ORDER: [PER SHRI R. MURALIDHAR]**

The appellant is a body corporate taking up the interest of Central Government, Business, Trade, Commerce and Industry. They are registered with Service Tax Registration No.AAATI1141GST001. On the ground that they have not discharged the Service Tax on the Grants in aid received from various State Governments and Central Government during the period 2013-14 to 2014-15, a Show

Cause Notice came to be issued demanding Rs.70,45,319/-. The SCN also alleged that they have not paid the Service Tax on Reverse Charge Basis to the extent of Rs.7,60,232/-. The appellants filed their detailed reply submitting that they are not required to pay the Service Tax for the Grants received from the Govt., since the same is not any consideration for providing any service. They also submitted that the Service Tax in question has been paid by them for Rs.7,60,232/- but the same was paid under some other headings and not under the RCM basis. Their total Service Tax payment exceeded the demand made. After due process, the lower authorities have confirmed the demand. Hence, the appeal before the Tribunal.

2. The Ld. Chartered Accountant reiterates the detailed Grounds taken by the appellant in their Appeal memorandum. He further makes the following submissions:

2.1. In order to establish that the contract is in the nature of a taxable service it is necessary to establish a 'client' and 'service provider' relationship exists between the two parties. A transaction cannot become commercial consideration in the absence of any 'client' and 'service provider' relationship as there will be no 'consideration' or 'supply' as is necessary for invoking the provisions of Service Tax. It is a settled law that any contract executed as a trustee without any profit or profit motive cannot be treated as an activity "in the course or furtherance of business". In order to determine whether there exists 'service provider-client' relationship between the Appellant and the Grantor who has assigned the specified jobs stated in the facts to the Appellant, the

nature of the amounts paid to the Appellant in consideration of that assignment is very much vital and decisive. A client must not only pay the actual expenses of the service but also the consideration or reward for the service to the service provider.

2.2. There is a fundamental difference between a service against which an invoice is raised and an arrangement for spending a predetermined budget. In the former the service provider charges a predetermined amount against services irrespective of the actual expenditure. In the latter the other side only expends funds as per mutually accepted budget there is no scope for profit or loss. The contract of the Appellant is based on actual expenditure of funds provided by the donor. There is no element of profit or reward which would accrue to the Appellant. In the present case, the amount paid to the Appellant for all the jobs undertaken by it are only the expenses of the service which are totally utilized in undertaking that job and no sum whatsoever have been paid to the Appellant towards reward. Further as stated agreed terms, any unspent amount shall be required to be refunded back to the Ministries.

2.3. Reliance is placed on the judgment of **Apitco Ltd. v. Commissioner of Service Tax, Hyderabad [also upheld by the Hon'ble Supreme Court]**. In the said case, Apitco Ltd., a technical consultancy organisation, received grants-in-aid from Central and State Governments for implementing welfare schemes such as poverty alleviation, minority welfare, training and infrastructure programmes. It paid Service Tax on fees from private clients but not on the grants. The Department sought to tax the grants under "scientific or technical consultancy"

[Section 65(105)(za)] for the period 2001-02 to 2007-08. The Tribunal held that the assessee, acting as a project implementing agency, was not rendering a service to the Government for a consideration; the grants were meant to be spent on the scheme beneficiaries and did not represent a fee or reward for any service. The demand was set aside. The Revenue's appeal was also dismissed by the Supreme Court.

2.4. Reliance is also placed on the judgment of **Daawat Foods Ltd. v. Commissioner (Service Tax Appeal No. 51632 Of 2022)** passed by Hon'ble CESTAT Delhi. The appellant, a rice miller, received grant-in-aid under a Ministry of Food Processing Industries scheme towards capital expenditure on its rice milling unit. The Tribunal held that for Service Tax to apply there must be a service provider, a service recipient, and consideration flowing between them. The grant "merely reimbursed capital expenditure" and could not be treated as consideration; the conditions were general in nature and imposed no specific service obligation towards the Government.

2.5. Similar view has been taken by the Hon'ble CESTAT in the case of –

- **Mineral Exploration Corporation Ltd. v. Commissioner [2015 (38) S.T.R. 421];**
- **Checkmate Services Pvt. Ltd. v. Commissioner [2024 (8) TMI 91 – CESTAT];**
- **Madhya Pradesh Consultancy Organisation Ltd. v. C.C.E., Bhopal [Final Order Nos. ST/ A/52927-52928/2017-**

**CU(DB) in Appeal Nos. ST/342/2012  
and ST/50304/2014]**

2.6. In view of the above submissions, it is prayed that the confirmed demand of Rs.70,45,319/- may be set aside on merits.

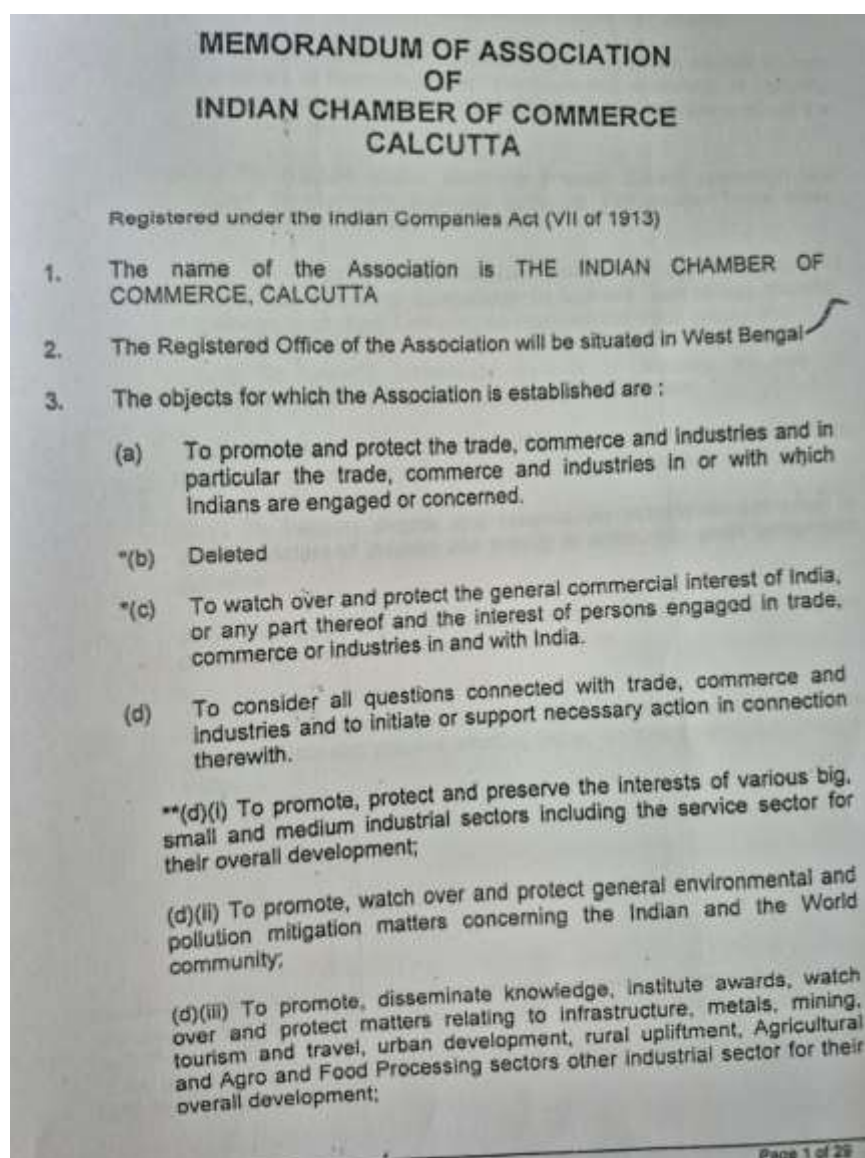
2.7. So far as the demand of Rs.7,60,232/- under Revere Service Charge is concerned, the appellants have paid the Service Tax. But nevertheless the payment has been done under different headings, because of which the Revenue is taking this amount as not paid at all. As a matter of fact the appellant has discharged more than this amount under RCM basis.

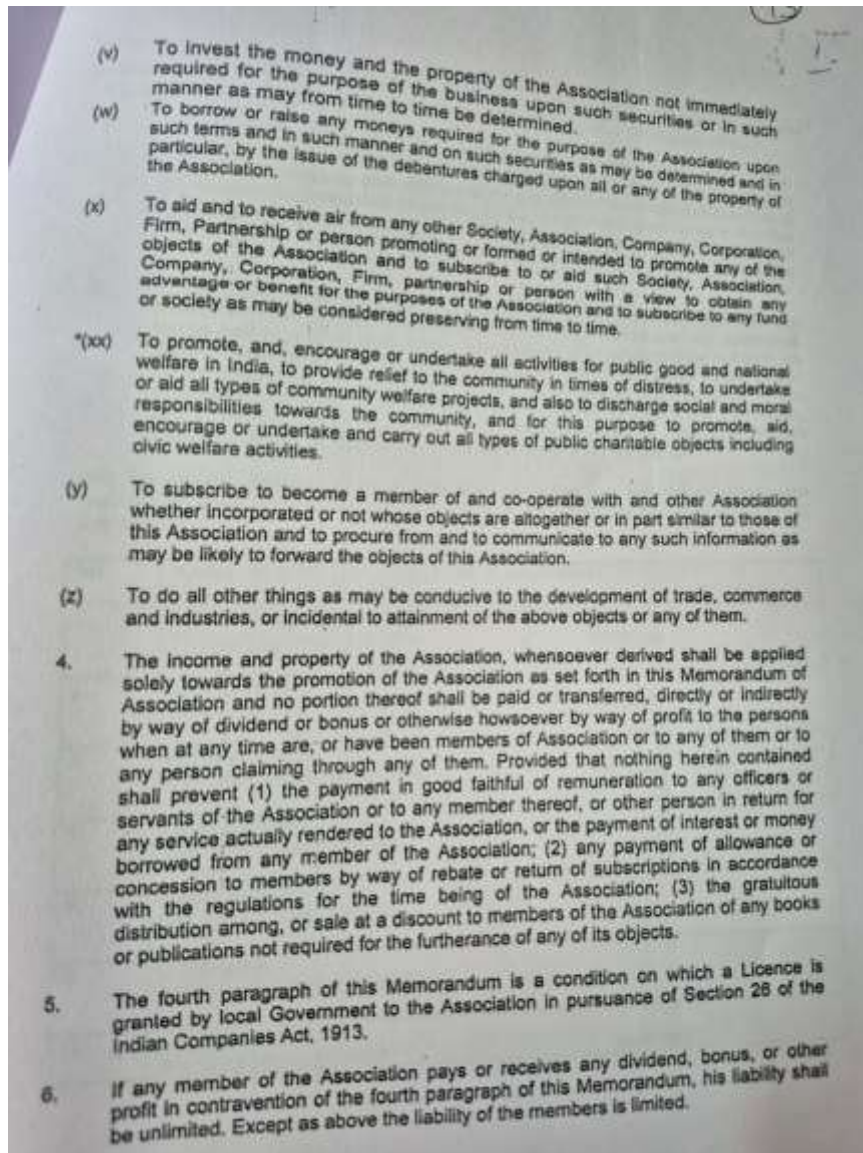
2.8. The Ld. Consultant also submits that the details of the grants received by the appellants have been properly shown in the books of accounts and accounted for both receipt and expenditure. They are properly reflected in the P & L Accounts and Balance Sheet. Therefore, there has no concealment on the part of the appellant. As a matter of fact, the quantification of the demand is only based on the Audited Accounts of the appellant. Hence, it is pleaded that the appellant cannot be fastened with the demand for the extended period.

3. The Ld. AR submits that Govt. grants received by are liable for Service Tax payment in terms of Circular No.127/09/2010 ST dated 16.08.2010. The appellants are not charitable organization. Therefore, he justifies the confirmed demand. In respect of the services received by the appellants on account of legal services, cab services etc., they are required to pay the same on reverse charge basis.

4. Heard both the sides. Perused the appeal papers and documents submitted before us.

5. We find that the appellant is a body of Association of the Trade and Commerce entities, basically working as a bridge between the Government and the Trade and Commerce. We have gone through the Memorandum of Association. The important and relevant portion is reproduced below:





6. From the above clauses, it gets clarified that the appellant is taking care of the interests of the trade and commerce. As per Clause 4, the income or property of the Association, will not be transferred or divided directly or indirectly by way of dividend or bonus. Therefore, this organization even if making any profit out of its venture, cannot distribute the same to its Members, but the same should be utilized for furtherance of the activities of the Association only.

7. We have also gone through the Circular No. F.No.354/119/2010-TRU dated 16<sup>th</sup> August 2010, which is reproduced below:

F.No.354/119/2010-TRU

Government of India

Ministry of Finance

Department of Revenue

Tax Research Unit

North Block, New Delhi

16<sup>th</sup> August 2010

To

Chief Commissioners of Central Excise and Service Tax (All),

Director General (Service Tax),

Director General (Central Excise Intelligence),

Director General (Audit), Commissioners of Service Tax (All),

Commissioners of Central Excise and Service Tax (All).

Madam/Sir,

Subject: Service tax on commercial training and coaching clarification whether donation is consideration regarding.

A representation has been received seeking clarification whether donations and grants-in-aid received from different sources by a

charitable Foundation imparting free livelihood training to the poor and marginalized youth, will be treated as consideration received for such training and subjected to service tax under commercial training or coaching service.

2. The matter has been examined. The important point here is regarding the presence or absence of a link between consideration and taxable service. It is a settled legal position that unless the link or nexus between the amount and the taxable activity can be established, the amount cannot be subjected to service tax. Donation or grant-in-aid is not specifically meant for a person receiving such training or to the specific activity, but is in general meant for the charitable cause championed by the registered Foundation. Between the provider of donation/grant and the trainee there is no relationship other than universal humanitarian interest. In such a situation, service tax is not leviable, since the donation or grant-in-aid is not linked to specific trainee or training.

4. Trade Notice/Public Notice may be issued to the field formations accordingly

5. Please acknowledge the receipt of this circular. Hindi version follows.

(J. M. Kennedy)

Director, TRU

Tel: 011-23092634

8. From this Circular, it is seen that it has been issued in the context of Commercial Training and Coaching when done for charitable purposes. The SCN has not been issued alleging that the appellant has rendered any service under Commercial Training or Coaching service. The demand has been made under "Business Exhibition Service". The demand is solely based on the grants received by the appellant from various State Governments and Central Government. The Agreements between the appellant and Govt. does not specify that the appellant is required to take up the work on account of Business Exhibition Service. The same is being given to them as Grant-in-aid.

9. At Para 8.2.2 of the Order in Original, the Adjudicating authority, after noting the Grants received by the appellant from various State Governments, also notes that "*Further, as per the agreement in each of the letters, the respective Governments sought for submission of utilization certificate in respect of Grants received by the assessee*".

10. This itself clarifies that the amount received by the assessee is not on account of any 'consideration' received by them, but the same is given as Grant, for which full utilization details are required to be provided by them. In case of normal client and service provider relationship, no account is required to be given by the service provider for the amount received from the client. The entire amount is the consideration received and is liable for Service Tax. In the present case, the agreements make it clear that the Grant given is conditional one, with the appellant being made responsible for proper

spending of the same and getting the same certified. Hence, it is more in the nature of the reimbursement rather than being a 'consideration'. Admittedly, only the 'consideration' can be made liable to Service Tax.

11. The Hon'ble Supreme Court, affirming the decision of the High Court, in the case of **Union Of India vs Intercontinental Consultants – 2018 (10) GSTL 401** has held as under:

*10) The High Court, after taking note of the aforesaid provisions, noted that the provisions both amended and unamended Section 67 authorised the determination of value of taxable services for the purpose of charging service tax under Section 66 (which is a charging section) as the gross amount charged by the service provider for such services provided or to be provided by him, in a case where the consideration for the service is money. Emphasising on the words 'for such service', the High Court took the view that the charge of service tax under Section 66 has to be on the value of taxable service i.e. the value of service rendered by the assessee to the NHAI, which is that of a consulting engineer, that can be brought to charge and nothing more. The quantification of the value of the service can, therefore, never exceed the gross amount charged by the service provider for the service provided by him. On that analogy, the High Court has opined that scope of Rule 5 goes beyond the Section which was impermissible as the Rules which have been made under Section 94 of the Act can only be made 'for carrying out the provisions of this*

*Chapter' (Chapter V of the Act) which provides for levy quantification and collection of the service tax. In the process, the High Court observed that the expenditure or cost incurred by the service provider in the course of providing the taxable service can never be considered as the gross amount charged by the service provider 'for such service' provided by him, and illustration 3 given below the Rule which included the value of such services was a clear example of breaching the boundaries of Section 67.*

*24) In this hue, the expression 'such' occurring in Section 67 of the Act assumes importance. In other words, valuation of taxable services for charging service tax, the authorities are to find what is the gross amount charged for providing 'such' taxable services. As a fortiori, any other amount which is calculated not for providing such taxable service cannot a part of that valuation as that amount is not calculated for providing such 'taxable service'. That according to us is the plain meaning which is to be attached to Section 67 (unamended, i.e., prior to May 01, 2006) or after its amendment, with effect from, May 01, 2006. Once this interpretation is to be given to Section 67, it hardly needs to be emphasised that Rule 5 of the Rules went much beyond the mandate of Section 67. We, therefore, find that High Court was right in interpreting Sections 66 and 67 to say that in the valuation of taxable service, the value of taxable service shall be the gross amount charged by the service provider 'for*

*such service' and the valuation of tax service cannot be anything more or less than the consideration paid as quid pro qua for rendering such a service*

*25) This position did not change even in the amended Section 67 which was inserted on May 01, 2006. Sub-section (4) of Section 67 empowers the rule making authority to lay down the manner in which value of taxable service is to be determined. However, Section 67(4) is expressly made subject to the provisions of sub- section (1). Mandate of sub-section (1) of Section 67 is manifest, as noted above, viz., the service tax is to be paid only on the services actually provided by the service provider.*

12. We find that in the present case, the Revenue has not come out with any evidence that the appellant was providing 'Business Exhibition Service' to various State Governments as has been alleged in the SCN. There is no evidence that for providing this service or any other service, the appellant has raised the Invoice and received the 'consideration'. All they have received is in the form of Grant, which is fully accountable for them for the expenditure incurred out of the same. Therefore, we have no hesitation to hold that the Grant received can never be equated to the 'consideration' received for any service provided by the appellant. As discussed above, the Grant is more in the nature of reimbursement [albeit received first and accounted for subsequently]. Therefore, applying the decision of the above referred case law of Intercontinental, we set aside the confirmed demand on merits.

13. We have also considered the case laws cited by the appellant, which are discussed below:

**2010 (20) S.T.R. 475 (Tri.-Bang)  
APITCO LTD. Vs CST, HYDERABAD**

**Affirmed by Supreme Court  
2011 (23) S.T.R. J94 (S.C.) [02-05-2011]**

6. We have given careful consideration to the submissions. It is not in dispute that the assessee company had implemented welfare schemes for the Central and State governments for the benefit of the poor or otherwise vulnerable/weaker sections of the society and collected grants-in-aid from the governments concerned. It is not in dispute that these grants-in-aid had been totally utilized for implementing the welfare schemes. Nothing over and above these grants-in-aid was received by the assessee from any of the governments. In other words, the assessee did not receive any consideration for "any service" to the governments. Therefore, we hold that, in the implementation of the Governmental schemes, the assessee as implementing agency did not render any taxable "service" to the government. The department seems to be considering the Governments to be "clients" of APITCO. The question now is whether there was "service provider-client" relationship between the assessee and the governments. Here, again, the nature of the amounts paid by the governments to the assessee is decisive. A client must not only pay the expenses of the service but also the consideration or reward for the service to the service provider. Admittedly, in the present case, there was no payment, by any government to the assessee, of any amount in excess of what is called "grant-in-aid". Thus any service provider-client relationship

between the assessee and the governments is ruled out. It is true that the assessee had executed the governmental schemes mainly through their engineers (technocrats) but this was not enough for the revenue to bring the assessee within the ambit of "scientific or technical consultancy" as clearly held by this Bench in the case of Administrative Staff college of India (supra). An organization rendering "scientific or technical consultancy" service under Section 65(105) (za) of the Finance Act 1994 must be a science or technology institution. The assessee-company has not been shown to be such an institution. Moreover, the revenue has failed to show that any scientific or technical advice or consultancy or assistance was rendered by the assessee to the governments. Many of the activities in question, such as micro-enterprises development, training programmes, project planning, infrastructure planning etc., are apparently in the nature of projects involving application of social science principles. The revenue has not shown that any techniques or principles of pure and applied sciences were applied in the implementation of the governmental schemes by the assessee. In the case of Administrative Staff College of India (supra), this Bench held that, as the research activities of the assessee (Administrative Staff College) were related to social science, they would not be within the ambit of "scientific or technical consultancy" and hence no service tax could be levied under that category, which view is squarely applicable to the facts of the present case. The view taken by the Tribunal in the above case stood affirmed by the Apex Court in the above case with the dismissal of the department's Civil Appeal filed against the Tribunal's Order.

7. For the reasons noted above, we hold that any amount of service tax is not leviable on the grants-in-aid received by the assessee from the governments, as project-implementing agency of the governments, during the period of dispute.

**2015 (38) S.T.R. 421 (Tri. - Mumbai)**

**MINERAL EXPLORATION CORPORATION  
LTD. Vs COMMR. OF C. EX., NAGPUR**

6.3 Coming to the issues whether any service has been provided by the appellant for consideration, we are convinced by the argument of the learned Counsel that when the activity is undertaken by them on the basis of 100% grant received from the Government and the grant is totally expended on the expenses involved under various activities as reflected in the balance sheet, it cannot be said that any service has been provided. For any service, there has to be a service provider, a service receiver and consideration. In the present case, the records show that no consideration has been paid by the Government to the appellant for undertaking the work of Survey and Exploration of Mineral and preparation of the detailed reports thereof

14. We note that even in the above case laws, it has been held that when the Grants-in-Aid is given to any entity, the same is subject to the same being spent for the welfare and is required to be properly accounted for. The Tribunals have held that there can not be any service provider – client relationship between the appellants and the Govt. in case of Grants in aid.

15. We find that the ratio of these case laws are also squarely applicable to the facts of the present case. Hence, by relying on these case laws, we set aside the confirmed demand of Rs.70,45,319/- on merits.

16. We also find force in the arguments of the appellant on the issue of time bar. It is on record that the appellants are registered Service Tax payers. They have been paying the Service Tax in respect of various services rendered by them. They have accounted for receipt of the Grants in Aid in their books of account and have also accounted for the expenditure incurred towards the same. The Revenue has failed to consider the expenditure incurred by them. Therefore, the appellant cannot be said to have indulged in any suppression with an intent to evade Service Tax payment. Since the very nature of Grant is that of reimbursement, the appellant could have entertained Bonafide belief that no Service Tax is payable by them. The cited case laws fortify their belief. Therefore, we hold no case whatsoever has been made out against the appellant to fasten the Service Tax liability for the extended period. Hence, we set aside the confirmed demand of Rs.70,45,319/- account of time bar.

17. So far as the demand of Rs.7,60,232/- on account of Service Tax demand on Reverse Charge basis is concerned, the appellant has produced copies of reconciliation at Page No.161 to 170 of the appeal paper book. They have provided five different services. While paying the Service Tax and filing the Returns, some mismatch has taken place between these services, including the services for which the Service Tax is payable on RCM basis. Overall for the

period 2013-14 they have excess paid ST to the extent of about Rs.11 lacs and similarly for 2014-15 they have excess paid ST to the extent of Rs.7.04 lacs. Therefore, as the appellant, there is no short payment at all resulting any loss to the Revenue.

18. We have gone through the reconciliation statements. However, it would not be possible for us to verify these figures individually to come to a conclusion about the excess payment or otherwise. However, we find that if the ST is to be paid on RCM basis, this would be available to the appellant as Cenvat Credit. Therefore, this results in a revenue neutral situation. Moreover, all the entries are properly recorded in their books of account. Hence, no case of suppression can be alleged against the appellant.

19. The Kolkata Bench in the case of **Ashirwad Foundaries Pvt. Ltd Vs CCGST vide Final Order No.75331/2020 dated 28.02.2020**, has held as under:

*6.1 I observe that the appellant is entitled to get the benefit of cenvat credit on the GTA services, therefore, making the situation revenue neutral. It is further observed that this Tribunal in the case of Star Alloys & Chemicals Pvt. Ltd., 2019 (21) GSTL 174 (Tri-Del.), wherein in identical situation has held that in the case of GTA service, cenvat credit is available, therefore extended period cannot be invoked. I further find that the Tribunal in the case of Reliance Industries Vs CCE, Mumbai, 2016 (44) STR 82 (Tri-Mum), has held that in case of revenue neutral situation, extended*

*period cannot be invoked. I further find that there is no evidence.*

20. Therefore, following the ratio of the cited case law, we set aside the confirmed demand of Rs.7,60,232/- on account of time bar.

21. As a result, the appeal stands allows. The appellant would be eligible for consequential relief, if any, as per law.

(Order Pronounced in Open court on 29.09.2026.)

**(R. MURALIDHAR)**  
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

RKP