

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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.76944 of 2019

(Arising out of Order-in-Appeal No.327-328/RAN/2019 dated 25.04.2019 passed by Commissioner (Appeals), Central Goods & Service Tax & Central Excise, Ranchi.)

M/s.Dalmia Cement (Bharat) Ltd.

(Formerly known as Dalmia Cement East Limited)

(Plot No.IV/A-7(P), Bokaro Industrial Area, Balidih, Bokaro Steel City, Bokaro-827014, Jharkhand.)

...Appellant

VERSUS

Commissioner, CGST & CX, Ranchi Commissionerate

.....Respondent

(6th Floor, C.R. Building, 5A-Main Road, Ranchi-834001.)

APPEARANCE

Ms. Payal Bharwani, Advocate for the Appellant (s)
Shri B. Sanfui, Authorized Representative for the Revenue

**CORAM:HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)**

FINAL ORDER NO. 76328/2026

DATE OF HEARING : 28.09.2026
DATE OF DECISION : 06.10.2026

Per :R. MURALIDHAR :

The Appellants were issued a Show Cause Notice demanding Service Tax of Rs.44,81,113/-. After due process, the Adjudicating authority dropped the demand to the extent of Rs.40,57,307/- and confirmed the balance demand of Rs.4,23,806/- The Adjudicating authority held that service provider has provided Manpower Supply Services and therefore the Appellant is required to discharge Service Tax liability on Reverse Charge Mechanism (RCM) basis. Being aggrieved, the Appellant had filed their Appeal before the

Commissioner(Appeals), who has dismissed the same. Therefore, the Appellant is before the Tribunal.

2. The Ld.Advocate appearing on behalf of the Appellant submits that the Adjudicating authority is in error in holding that the services provided by M/s. Shree Durga Enterprises pertain to Manpower Supply service, whereas they were taking up only civil work. She produces copy of the work order issued to Shree Durga Enterprises, wherein it is clearly stated that they will undertake civil work at Railway siding by deploying their own workers. This Work Order also gives the details of rate per square meter/cubic meter of work done. She submits that therefore the service provided by M/s. Shree Durga Enterprises cannot be taken as 'Manpower Service'.

3. She also submits that the Show Cause Notice issued on 12.06.2017 for the transactions taking place during July 2012 to December 2024 is hit by the aspect of time bar.

4. The Ld.AR for the Department reiterates the findings in the impugned order and justifies the confirmed demand.

5. Heard both sides and perused the Appeal papers and other documentary evidence placed before us.

6. We have gone through the Work Order issued to M/s. Shree Durga Enterprises and the same is reproduced below :

ANNEXURE - J

**BOKARO JAYPEE
CEMENT PLANT****BOJCP/33/2012**

Date: 31.01.2012

M/S SHREE DURGA ENTERPRISESPlot No. 1246, Telgaria more, Chas
Bokaro Steel City, Jharkhand, 827013
PH. 06542-253600, 9931216462**Sub:** Work order of Civil works in Railway Siding outside the Plant boundary for BoJCL Bokaro.**Ref:** Your application No. Nil

Date -

Dear Sir,

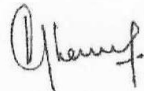
With reference to your application, we are pleased to issue this work order in your favour to execute civil works in Railway Siding outside the plant boundary for Bokaro Jaypee Cement Ltd at Bokaro, as per scope of work on the following conditions-

Scope of work:-

01. Civil work in Railway Siding outside the plant boundary.

Terms & conditions:-

01. You will observe rules and regulations as prescribed by Bokaro Jaypee Cement Limited from time to time in connection with execution of work.
02. You will observe rules and regulations of various central and state Govt. Deptt.
03. You will obtain necessary license etc. as required under labour laws for the labour engaged by you and will ensure that all your workers are adequately insured against any accident of work.
04. All persons engaged by you on the work will be your own workmen and we do not hold any responsibility regarding any matter pertaining to such workmen.
05. You will ensure all safety precautions as prescribed by the law & as well as by the company. In case of any accident to your workmen/ labour at work site, you will be responsible for medical care and compensation to such workmen as per the law. You hereby indemnify us from any cost or liability in this regard.
06. You will carry out the job in a workmanship like manner and ensure the quantity and quality of work as indicated to you from time to time is fulfilled.
07. This is a labour rate work order. You will be paid at the rates fixed by the Company for various items of work, which can be seen in approved Schedule of Rates, maintained for the purpose.
08. The company will not provide any residential accommodation or transport for any of your workers or labour for which you will make your own arrangements.
09. This work order may be cancelled at any time without notice.

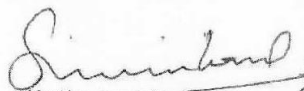

10. You shall be fully responsible for making timely payment to your labour and fulfilling all obligations under various laws. You will maintain all the necessary records as required under laws. You will ensure that minimum wages are paid to the labour as per provisions of minimum wages Act of Jharkhand Govt. from time to time. Any cost of liability pertaining to such matter would be your liability and you hereby indemnify us from all such costs and liabilities.
11. In case of any complaint is received from your labour/worker regarding non-payment or less payment of wages, the labour/worker will be paid their wages by us and the amount will be recovered from your deposits or payments due to you.
12. You will ensure proper discipline to be observed by all your employees and labour, failing which action will be taken against you and the concerned employees/workmen, will be debarred from entering BoJCL plant at BIADA, Bokaro.
13. 5% amount of each running bill shall be retained as Security Deposit and the same shall be released after six months of satisfactory completion of work.
14. Income tax shall be deducted from your running bills as per Government rule.
15. All the disputes shall be subject to the jurisdiction of Bokaro court.
16. One copy of this work order may please be signed and returned as a token of acceptance of the terms and conditions.
17. You have to complete the work within the mutually accepted schedule date to the satisfaction of site engineer.
18. The work order can be cancelled /given to any PRW for the uncompleted work if the progress of work is found unsatisfactory at any time in between the schedule date of completion.
19. You will provide all assistance for measurement of completed work to be recorded jointly with site engineer, for preparation of monthly RA bill. You will submit your RA based on the above measurement which will be paid within 15 days of submission.
20. You will ensure to deploy the adequate manpower as mutually agreed with site in-charge during meetings time to time (the manpower indicated in the work order category wise i.e. no. of fitter, carpenter, mason & labour etc.). In case of any deficit in a month Rs. 50/- per head of deficient manpower will be deducted as penalty from your security deposit while releasing the same and/or from monthly RA bill as applicable.
21. A penalty of 5% of the bill amount for not meeting the monthly target from each monthly RA bill till the progress is made up to committed schedule for maximum up to 3 monthly bills.
22. In case progress is not made up within two months your work is likely to be terminated/foreclosed.

Thanking you,

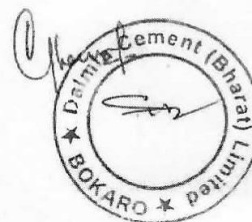
yours faithfully,

FOR BOKARO JAYPEE CEMENT PLANT

(Contractor)


(Authorized Signatory)





G:\Sonan Lal\SOR 21.2.09\SOR RATES\Jaypee\Revised SOR RATE as on 21.05.2011.xls

ANGXURG-K

Item Code	Description	Unit	Old Rate As on 21.02.2009	New Rate As on 21.09.2009 (Increment @ 7.1%)	New Rate As on 21.03.2011 (Increment @ 11%)	New Rate As on 21.05.2011 (Increment @ 18%)	Remarks
HEADER : B Earth Work							
B01	Excavation In Ordinary/Loose Soil With Initial Lift Of 1.5 M And Initial Lead Of 10 Meter	M3	35.89	38.44	42.67	50.35	
B02	Excavation In Hard Soil (Morrum) Etc. Where Width Is More Than 3 Meter	M3	41.67	44.63	49.04	58.45	
B03	Excavation In Hard Soil (Morrum) In Foundation, Footings And Trenches Less Than 3 Meter Width	M3	57.41	61.43	68.25	80.53	
B04	Not Applicable				0.00	0.00	
B05A	Excavation In Hard Rock After Drilling And Blasting Including Breaking Of Boulders (But Excluding Drilling And Blasting Shall Be Done By The Company)	M3	74.08	79.34	88.07	103.92	
B05B	Excavation In Hard Rock Using Pavement Breaker Or By Other Means (Not Require Blasting)	M3	133.91	143.42	159.19	187.85	
B05C	Excavation In Soft/Weathered Rock (Not Require Blasting) And Disposal Of Surplus Excavated Earth, Including Initial Lift Of 1.5 M & Lead Of 10 M	M3	97.18	104.08	115.53	135.32	
B06	Back Filling With Excavated Earth Available Next To The Pit Including Hand Compaction In 6" Layers And Watering (Within 5 Meters)	M3	21.29	22.80	25.31	29.87	
B07	Back Filling Between Foundation & Cable Trenches Or In Such Congested Area Using Loose Dumped Earth Available (With Lead Of 5 Meters To 15 Meters)	M3	35.89	38.44	42.67	50.35	
B08	Back Filling With Excavated Earth Available Within One Lead Of 10 M Without Compaction	M3	18.17	19.46	21.60	25.49	
B09	Earth Filling In Road Work Without Compaction (Excavated Earth Available)	M3	18.17	19.46	21.60	25.49	
B10A	Morrum Filling In Road Work Without Compaction (For Rawa Road)	M3	19.09	21.06	23.41	27.62	
B10B	Morrum Filling In Road Work Without Compaction (For Plant & Township)	M3	17.37	18.60	20.65	24.37	
B11	Stone Filling Or Brickbats Filling In Road Or In Any Other Structure (Including Breaking Brickbats)	M3	37.27	39.92	44.31	52.28	
B12	Extra Lift For Every 1.5 M Beyond First Lift	M3	10.13	10.85	12.04	14.21	
B13	Extra Lead For Every 10 M Beyond First Lead	M3	10.13	10.85	12.04	14.21	
B14	Spreading & Filling Stone Metal According To Line Level & Camber In Layers Not Exceeding 15 C.M. Loose, Packing In Loose, Packing In Voids While Rolling (For Plant & Township)	M3	46.88	50.21	55.73	65.76	
B15	Spreading & Filling Stone Metal According To Line Level & Camber In Layers Not Exceeding 15 C.M. Loose, Packing In Loose, Packing In Voids While Rolling (For Rawa & Bala Out Side Roads)	M3	50.48	54.06	60.01	70.81	
B16	Spreading Morrum/Stone Dust As Binder (For Road Work Or Any Other Structure)	M2	1.04	1.11	1.24	1.46	
B17	Making 2" Wide Grooves With Pick Axes On Asphalt Road (This Item Rate Is Included With Item No. C33 To C35)	RM	2.25	2.41	2.67	3.16	
B18	Cleaning W.B.M. Surface With Wire Brushes/Brooms And Removing Superficial Dust Prior To Carpeting (This Item Rate Is Included With Item No. C33 To C35)	M2	2.25	2.41	2.67	3.16	
B19	Slope Dressing Of Embankment By Cutting/Filling Above 150 MM To 300 MM And Hand Compaction In All Respect	M2	6.72	7.20	7.99	9.43	
B20	Slope Dressing Of Embankment Giving Proper Slope And Hand Compaction (Cutting/Filling Up To 150 MM)	M2	3.35	3.59	3.98	4.70	
B21	Excavation Up To Depth Of 300 MM Where The Top Soil Is Compacted Due To Movement Of Traffic & Others	M3	85.42	91.48	101.55	119.83	



7. From the above Work Order, we find that the service provider is not charging any amount towards 'Supply of Manpower' on the number of man days provided by him. It is based on the civil work carried out and the billing is done towards per cubic meter of work done. As a matter of fact, there is no mention about any number of workers deployed for this work. Therefore, based on such factual documentary evidence, the lower authorities have considered the service as 'Manpower Service'. Therefore, on merits, we set aside the demand.

8. We also find that the demand is time barred since the Appellant has recorded all the transactions in their Books of Accounts, from wherein the data was collected to quantify the demand. Moreover, since the Appellant is manufacturer of dutiable goods, even if the Revenue's view that the service would be in respect of the 'Manpower Service', the same would be eligible as Cenvat credit to the Appellant, if Service Tax were to be paid on RCM basis. Hence, no case of suppression can be made out against the appellant. Therefore, we set aside the confirmed demand even on account of time bar.

9. Accordingly, the Appeal stands allowed with consequential relief, if any, as per law.

(Order pronounced in the open Court on 06.10.2026.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)