

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.75754 of 2024

(Arising out of Order-in-Original No.08/ST/Commissioner/2023-24 dated 08.02.2024
passed by Commissioner of CGST & Central Excise, Patna)

M/s Reliable Enterprises, Mithapur

(1-A First Floor, Kamta, Ramsakhi Enclave, Mithapur, Khagaul Road, Patna-800001)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Patna

(C.R.Building, 4th Floor, Birchand Patel Marg, Patna-800001)

Respondent

Appearance:

S/Shri Amit Kumar & Vijay Kumar, both Advocates for the Appellant
Shri S.K.Jha, Authorized Representative for the Appellant

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76508/2026

DATE OF HEARING : 12 OCTOBER 2026

DATE OF PRONOUNCEMENT : 16 OCTOBER 2026

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein demand service tax of Rs.1,60,40,851/ has been confirmed against the appellant along with equivalent amount of penalty imposed on the appellant under Section 78 of the Finance Act, 1994.

2. The facts of the case are that the Appellant, M/s Reliable Enterprises, a sole proprietorship concern of Mr. Rishu Shree, having its principal place of business at 1-A, First Floor, Kamta Ramsakhi Enclave, Beside Dayanand Boys School, Mithapur, Khagaul Road, Patna-800001, is engaged in the business of providing taxable services under the categories of "Clearing & Forwarding Agent Service" and "Business Auxiliary Service". The Appellant was duly registered with the Service

Tax Department bearing Registration No. CJFPS5467MST001 under the provisions of the Finance Act, 1994 and has been carrying on its business in the ordinary course. Throughout the relevant period, the Appellant bona fide believed that it was complying with the statutory provisions applicable to its business activities and had no intention whatsoever to suppress any material facts or evade payment of Service Tax.

2.1 That on the basis of the aforesaid allegations, the Assistant Commissioner, CGST & Central Excise, Patna (West) Division issued Show Cause Notice dt 22.10.2021 proposing recovery of Service Tax amounting to Rs.3,56,02,057/- inclusive of Education Cess, Secondary & Higher Education Cess, Swachh Bharat Cess and KrishiKalyanCess, for the period April, 2016 to June, 2017.

2.2 That while issuing the aforesaid Show Cause Notice, the Department proceeded on the assumption that the entire amount reflected in the Income Tax records constituted taxable consideration for services rendered by the Appellant.

2.3 That on the basis of the aforesaid figures, the Department computed Service Tax liability by applying the applicable rates on the entire receipts and proposed recovery of Service Tax amounting to Rs.3,56,02,057/- (Rupees Three Crores Fifty-Six Lakhs Two Thousand Fifty-Seven only), inclusive of applicable cesses, for the period 2016-17 and April, 2017 to June, 2017. Besides the proposed recovery of tax under the proviso to Section 73(1) of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017, the Department also proposed recovery of applicable interest under Section 75 and imposition of

penalties under Sections 77 and 78 of the Finance Act, 1994 on the allegation that the Appellant had deliberately suppressed the taxable value of services with an intention to evade payment of Service Tax.

2.4 That upon completion of the adjudication proceedings, the Adjudicating Authority passed the impugned Order whereby, out of the total proposed demand of Rs.3,56,02,057/-, only Rs.1,60,40,851/- (Rupees One Crore Sixty Lakhs Forty Thousand Eight Hundred Fifty-One only) was confirmed under Section 73(2) of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017, while the remaining demand was dropped. The Adjudicating Authority also confirmed recovery of interest under Section 75 of the Finance Act, 1994, imposed an equivalent penalty of Rs.1,60,40,851/- under Section 78, imposed a further penalty of Rs.10,000/- under Section 77(2) for non-filing of ST-3 Returns, imposed late fee of Rs.20,000/- under Section 70 read with Rule 7 of the Service Tax Rules, 1994 and also imposed an additional penalty of Rs.10,000/- under Section 77(1)© for alleged failure to produce documents during the course of investigation. The Adjudicating Authority further observed that the penalty under Section 78 would stand reduced to 25% of the confirmed demand provided the confirmed tax, applicable interest and reduced penalty were paid within thirty days from the date of receipt of the Order.

2.5 The appellant had supplied sanitary equipments of dustbin sets to the government departments and local bodies on which they paid the VAT.

2.6 The appellant had received the payment of Rs.22,06,18,526/ for the supply of equipments from Sintax Industries, Sintax prefab and

infra Ltd, , Nagar parishad Gopal Gunj , Nagar Parishad Bihata , Patna Municipal corporation , Siwan Municipal & Deoghar Municipality, The appellant had paid appropriate VAT on these transactions.

2.7 The appellant had made an agreement for the distribution of recharge vouchers . The department had alleged that the service tax is payable on these transactions.

2.8 The appellant had received the amount for Rs.77,39,818/- for the renovation and alteration of factory plant of M/s sintex in which the goods had been supplied. So, the department had alleged that appellant is liable to pay the service tax on these transactions.

2.9 Against the said order, the appellant is before us.

3. The Id.Counsel for the appellant submits that the appellant had received the payment of Rs.22,06,18,526/ for the supply of equipments from Sintax Industries, Sintax prefab and infra Ltd, , Nagar parishad Gopal Gunj , Nagar Parishad Bihata , Patna Municipal Corporation , Siwan Municipal &Deoghar Municipality. The appellant had paid appropriate VAT on these Tansactions. So the appellant would not be liable to pay the service tax.

3.1 He further submits that the appellant had made an agreement for the distribution of recharge vouchers with Vodafone . The department had alleged that the service tax is payable on these transactions. These transactions are exempted from service tax under Serial No.29(f) of mega exemption Notification No.25/2012-ST dated 20.06.2012.

3.2 On the limitation, he submits that the period in dispute is 2015-16 to June 2017, for which the service tax had been demanded and the Show-cause notice had been issued on 22.10.2021. Therefore, he

submits that on the limitation ground also, the appellant would not be liable to pay service tax as the extended period of limitation is not invokable.

3.3 It is further submitted that the appellant had made reply to the show-cause notices and letters by intimating in details, so the extended period of limitation is not invokable. Accordingly, he prays that the service tax would not be demanded on the basis of limitation also.

3.4 Finally, he submits that the impugned order is not sustainable in the eyes of law on merit as well as on limitation, accordingly, the same be set aside by allowing the appeal with consequential benefits.

4. The Id.A.R. for the Revenue has justified the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that the appellant has contended that the period involved in this case is from 2016-17 up to June, 2017 and the show-cause notice has been issued to the appellant on 22.10.2021. In that circumstances, it is prayed that part of the demand is beyond the extended period of limitation as show-cause notice has been issued beyond five years. Therefore, we hold that the demands up to 31st, September, 2016, are not sustainable on limitation itself.

7. We further take note of the fact that the impugned order has confirmed the demands on three issues, namely-

(i) The appellant has supplied materials as works contract to Sintax Prefab and Intra Limited and Sintex Industries Ltd. and has not paid service tax ;

(ii) The appellant has taken distributorship of Vodafone SIM and received the accrued commission.

(iii) The appellant has supplied plastic dustbins, Portolet toilets etc. to the local bodies and State Governments.

Issue (i)

The appellant has supplied materials as works contract to Sintax Prefab and Intra Limited and Sintex Industries Ltd. and has not paid service tax -

8. With regard to "works contract service" rendered to Sintax Prefab and Intra Limited and Sintex Industries Ltd., the appellant is liable to pay service tax within a period of limitation i.e. 01.10.2016 to 30.06.2017 at the rate of 33% of gross amount received.

Issue (ii)

The appellant has taken distributorship of Vodafone SIM and received the accrued commission -

9. We find that the said commission is exempted at Sl.No.29(f) of Notification No.25/2012-ST dated 20.06.2012. Therefore, on the commission earned from Vodafone Limited, the appellant is not liable to pay service tax. Therefore, whole of the demand on this account is set aside.

Issue (iii)

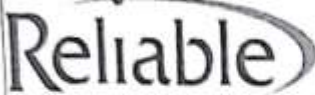
The appellant has supplied plastic dustbins, Portolet toilets etc. to the local bodies and State Governments -

10. We further take note of the fact that the appellant has supplied plastic dustbins, portolet toilets etc. to the local bodies and to that extent, the appellant has produced the invoices that the said invoices

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pertain to the sale of the said goods, on which VAT has been paid. For better appreciation of facts, the said invoices are extracted below :

INVOICE NO:-
RE/RNC/SINTEX/2017-18/010
ORDER NO:- 2784/05.12.2016


RELIABLE ENTERPRISES
Main Office :- In front of SBI,ATM Khagaul
Road Mithapur,Patna-01 (Bihar)
Branch Office :Near Yash Apartment,Ram Ganga Niwas
Patel Nagar,Ranchi,Harmu (Jharkhand)

Consignee:- Reliable Enterprises
C.S.T. No:- 20640109984
E.T. No:- CJFPS5467MST001
VAT No:- 20640109984
Ganga&Div:- NA
LT. No:- CJFPS5467M
Bank Name & Address:-
State Bank Of India A/c-34189487065
IFSC-SBIN0001511, Mithapur , Patna-800001
Payment By
Enclosed: No

Government Project
TAX / RETAIL INVOICE
DATE:- 30-Jun-2017

To,
Special Officer
Jamshedpur Notified Area Committee
Jamshedpur, Jharkhand
Delivery At: (Name & Address)
Special Officer
Jamshedpur Notified Area Committee
Jamshedpur, Jharkhand

VAT No:-
C.S.T. No:-
C.S.T.%(Against 'C' Foam):-
Road Permit No:-
Exemption Certificate enclosed : Excise / Octroi / Other
Name & Address of Transport:-
Local Transporter From Ware House to Jamshedpur Notified Area Committee
Jharkhand

Amount : 1501900 Chq/DD no.
Credit Period: 0 days & DL

Code	Product Discription	Capacity	Color	Qty.	Rate per	STD. (%)	Total Amount
GRSS-05-15-41	Supplying Of Floor Mouted Garbage Bin	150	Blue	150	6235.72		935358.00
TRCGB 04-01	Supplying Of Tricycle With 08 Nos Plastic Container	40x08	Green	6	22122.64		132735.84
TRCGB 03-01	Supplying Of Hand Cart with 04 Nos Plastic Container	30x06	Green	39	8943.38		348791.82
SUB TOTAL							1416885.66
							
VAT 6.0% PAID 85013.14 EXCISE PAID CST PAID FREIGHT PAID OCTROI PAID ROUND OFF 1.20							
GRAND TOTAL							15,01,900.00
In Words : Fifteen Lakh One Thousand Nine Hundred Only							
Special Instruction: 1.Warranty Covered as per manufacture company's norms. 2.Goods once sold shall neither be exchanged or refunded. 3.All transactions are strictly Subject to Ranchi Jurisdiction.							
BRANCH RANCHI For Branch Office Use Only							
Remarks:							
Verified By : Mr.Ashish Kr Approved By: Mr.Narbeer Singh							
Yours truly  for Reliable Enterprises Subject to Ranchi Jurisdiction							

INVOICE NO - 75/2016-2017

INVOICE

DATE: 31-Mar-17

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Reliable

RELIABLE ENTERPRISES
FIRST FLOOR, SPICY CORNER BUILDING
MITHAPUR KHAGOL ROAD
PATNA-800001
TELEFAX-0612-2214399,3068054

To,

EXECUTIVE OFFICER
NAGAR PARISHAD
SIWAN, BIHAR

Delivery At (Name & Address)
EXECUTIVE OFFICER
NAGAR PARISHAD
SIWAN, BIHAR

Customer - Reliable Enterprises
C.S.T. No - 10127106137
S.T. No - CJPFS5467MST001
VAT No - 10127608069
Range & Div - Patna South Circle
S.T. No - CJPFS5467M

VAT No -
C.S.T. No -
C.S.T. % (Against 'C' Form) -
Road Permit No -
Exemption Certificate enclosed - Excise / Octroi / Other
Name & Address of Transport -
Local Transporter From Ware House to Above Address

Bank Name & Address -
CANARA BANK
Mithapur Khagaul Road, Patna-800001

Payment By Cheque
Amount 11825000 Chq/DD no
Enclosed: No Credit Period: 7 days & ts

Code	Product Description	Capacity	Color	Qty.	Rate per	STD. (%)	Total Amount
BKT 01-01	Household Bucket with Lid and Plastic Handle	12	Green	21500	523.81		11261904.76
SUB TOTAL							11261904.76

Sintex

Industries Limited

110022163 PHUMSA

VAT 5.00%
EXCISE PAID
CST PAID
FREIGHT PAID
OCTROI PAID
ROUND OFF

563095.24

GRAND TOTAL 1,18,25,000.00

Rupees In Words : One Crore Eighteen Lakh Twenty Five Thousand Only/-

Special Instruction:
1 Warranty Covered as per manufacture company's norms
2 Goods once sold shall neither be exchanged or refunded
3 All transactions are strictly Subject to Patna Jurisdiction

BRANCH PATNA

For Branch Office Use Only

Verified By Mr.Narbeer Singh

Authorized By Mr.Rishu Shree

Yours truly

for Reliable Enterprises Subject to Patna Jurisdiction

INVOICE NO:-
54/2016-2017

INVOICE

DATE:-
31-Mar-17



RELIABLE ENTERPRISES
FIRST FLOOR, SPICY CORNER BUILDING
MITHAPUR KHAGOUL ROAD
PATNA -800001
TELEFAX -0612-2214399,3268054

To,

EXECUTIVE OFFICER
NAGAR PARISHAD
MOTIHARI, BIHAR

Delivery At: (Name & Address)
EXECUTIVE OFFICER
NAGAR PARISHAD
MOTIHARI, BIHAR

Consignee:- Reliable Enterprises
C.S.T. No:- 10127106137
S.T. No:- CJFPS5467MST001
VAT No:- 10127609069
Range/Div:- Patna South Circle
S.T. No:- CJFPS5467M
Bank Name & Address:-
CANARA BANK
Mithapur Khagaul Road, Patna-800001

Payment By
Enclosed No

VAT No:-
C.S.T. No:-
C.S.T. % (Against 'C' Form):-
Road Permit No:-
Exemption Certificate enclosed : Excise / Octroi / Other
Name & Address of Transport:-
Local Transporter From Ware House to Above Address

Amount : 7120000 ChgDD no.
Credit Period: 7 days & DL

Code	Product Discription	Capacity	Color	Qty.	Rate per	STD. (%)	Total Amount
GBRW 24-04	Wheeled Waste Bins	140	Green	400	16792.45		6716981.13
SUB TOTAL							6716981.13
 Sintex Industries Limited VAT 6.00% EXCISE PAID CST PAID FREIGHT PAID OCTROI PAID ROUND OFF GRAND TOTAL 71,20,000.00							403018.87
Rupees In Words : Seventyone Lakh Twenty Thousand Only/-							

Special instruction:
1 Warranty Covered as per manufacture company's norms.
2 Goods once sold shall neither be exchanged or refunded.
3 All transactions are strictly Subject to Patna Jurisdiction

BRANCH
Remarks

PATNA

For Branch Office Use Only

Verified By:

Mr.Narbeer Singh

Approved By:

Mr.Rishu Shree

Yours truly

for Reliable Enterprises

Subject to Patna Jurisdiction

11. From the above, it is very much clear that the appellant has not provided any service, but has supplied plastic dustbins, portolet toilets etc., on which VAT has been paid. Therefore, on such supply, the appellant is not liable to pay service tax. Therefore, the demand confirmed on this account is also set aside.

12. In view of the above, the following order is being passed :

The appellant is liable to pay service tax rendered to Sintax Prefab and Intra Limited and Sintex Industries Ltd., for the period 01.10.2016 to 30.06.2017 at the rate of 33% of gross amount received along with interest. No penalty is imposable on the appellant.

13. In these terms, the appeal is disposed off.

(Pronounced in the open court on **16.10.2026**)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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