IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No.70231 of 2026

(Arising out of Order-in-Original No. VNS-EXCUS-000-COMMR-03/2025-26 dated 28.11.2025 passed by the Commissioner, Central Goods & Services Tax, 09 A, Maqbool Alam Road, Varanasi – 221 002)

M/s. R.P.L. Projects Limited : Appellant
B-27/96, A-17, Gurudham Colony,
1st Floor, Bhelupur,
Varanasi (Uttar Pradesh)

VERSUS

Commissioner, C.G.S.T. and Central Excise : Respondent
Varanasi,
09 A, Maqbool Alam Road,
Varanasi – 221 002 (Uttar Pradesh)

APPEARANCE:

Shri Prashant Shukla, Advocate, for the Appellant

Shri Manish Raj, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 70565/ 2026

DATE OF HEARING: 07.07.2026

DATE OF DECISION: 02.11.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been preferred by M/s. R.P.L. Projects Limited, having its registered office at B-27/96, A-17, Gurudham Colony, 1st Floor, Bhelupur, Varanasi, Uttar Pradesh [hereinafter referred to as the "appellant"], assailing the Order-in-Original No. VNS-EXCUS-000-COMMR-03/2025-26 dated 28.11.2025, passed by the Commissioner, Central Goods & Services Tax, 09-A, Maqbool Alam Road, Varanasi, whereby, while holding that the extended period of limitation was not invocable and consequently setting aside the demand of

Rs.2,08,40,594/- pertaining to the financial year 2015-16 as time-barred, as also setting aside the penalties imposed under Sections 76 and 78 of the Finance Act, 1994, the ld. adjudicating authority upheld the demand of Rs.2,01,05,042/- for the remaining period from 2016-17 to 2017-18 up to 30.06.2017, and imposed a penalty of Rs.20,10,504/- under Section 76 of the Finance Act, 1994, as proposed in the Show Cause Notice.

2. The facts of the case are that the appellant is a company incorporated under the Companies Act, 1956 and is a registered service tax assessee bearing Service Tax Registration No. AAECR3350DSD002. The appellant was registered for a number of taxable services, including Security/Detective Agency Service, Cargo Handling Service, Goods Transport Agency Service, Site Formation and Clearance, Excavation and Earthmoving and Demolition Service, Mining Service, Legal Service, amongst other taxable services.

3. During the period in dispute, namely 01.04.2015 to 30.06.2017, the appellant was engaged in providing services to various projects and service recipients, principally M/s. Northern Coal Field Ltd. (NCL), besides M/s. Singh Construction Co., M/s. Kandol Transport Ltd., M/s. Om Transport, M/s. RPL-SRP-UI-JV and M/s. R.P. Singh & Brothers. The activities undertaken by the appellant involved transportation of coal in contractor's tipping trucks, including loading of coal into the tipping trucks by means of pay loaders. The coal was shifted from one place to another within the mining areas of M/s. NCL and others, and the activity also included transportation of coal in the contractor's tipping trucks from the coal stockyards to the Coal Handling Plant

situated within the main premises of M/s. NCL, as well as similar transportation activities undertaken for the other service recipients.

4. The nature and taxability of substantially similar activities undertaken by the appellant had been the subject matter of earlier proceedings. An earlier Show Cause Notice dated 14.09.2015 had been issued to the appellant in respect of the activities undertaken during the period 2010-11 to 2013-14, alleging non-payment of service tax in relation to activities including loading, unloading, breaking, hand packing, lifting and transportation of coal undertaken for various entities, including M/s. NCL and others. Pursuant thereto, a Statement of Demand dated 19.04.2016 had also been issued. The said proceedings were subsequently adjudicated by the Commissioner, CGST & Central Excise, Varanasi, who, vide Order-in-Original No. 02/Commr./VNS/2017 dated 05.10.2017, dropped the demand and penalty proposed therein. The Department challenged the aforesaid order before the CESTAT, Allahabad, which, vide Final Order No. ST/A/7/71120/2018-CU (DB) dated 23.05.2018, rejected the appeal preferred by the Revenue and upheld the order of the Commissioner. The Revenue thereafter preferred an appeal before the Hon'ble Supreme Court against the decision of the Tribunal.

5. In the course of the subsequent proceedings, the Superintendent, Central Excise & CGST, Range-South, Division-Varanasi, vide letter bearing C. No. ST/RSE/VNS/Audit/RPL/72/15/35 dated 05.04.2019, called upon the appellant to furnish month-wise details of the amount charged from all persons/service recipients in respect of the aforesaid activities during the period 01.04.2015 to 30.06.2017, together with

supporting documents, including copies of invoices/bills raised by the appellant, agreements entered into with the service recipients and work orders issued by the service recipients.

5.1. The appellant, vide its letter dated 12.04.2019, referred to the earlier proceedings and informed the Department that the earlier Statement of Demand/Show Cause Notice No. 28/Commr/Alld/2016 dated 19.04.2016 had already been decided in its favour by the Commissioner vide Order No. 02/Commr./VNS/2017 dated 05.10.2017 and that the demand and penalty proposed therein had been dropped. The appellant further pointed out that the order had been reviewed by the Chief Commissioner, Lucknow, principally on the ground that the charges mentioned in the earlier notice ought to be upheld to the extent that they pertained to Cargo Handling Service, in the form of loading/unloading etc., along with interest, but that the Department's appeal against the said order had thereafter been rejected by the CESTAT, Allahabad vide Final Order No. ST/A/7/71120/2018-CU (DB) dated 23.05.2018. The appellant accordingly contended that the issue raised in the earlier notice had already been settled in its favour and expressed its inability to appreciate the requirement of furnishing the same details in the circumstances. It was also stated that neither the audit proceedings nor the proceedings undertaken by the DGCEI during their visit/audit of the books and records of the appellant-company had raised any objection regarding the taxability of the relevant transactions/agreements as Cargo Handling Service.

6. However, the Department entertained the view that handling and transportation of coal/mineral from the pithead to a specified location within a mine/factory or for transportation outside the mine remained taxable as the same falls within the ambit of "Cargo Handling Service". Accordingly, it was alleged that the activities undertaken by the appellant were liable to service tax under the taxable category of Cargo Handling Service in terms of erstwhile Section 65(23) of the Finance Act, 1994; and that with effect from 01.07.2012, the said activities were taxable under the definition of "service" contained in Section 65B(44) of the Finance Act, 1994, being neither covered under the negative list nor under any exemption notification.

7. On the basis of the above, a Demand-cum-Show Cause Notice dated 18.04.2019 was issued to the appellant invoking the proviso to Section 73(1) of the Finance Act, 1994, proposing recovery of service tax amounting to Rs.4,09,45,636/- (inclusive of applicable cess) on the gross amount charged by the appellant during the period 01.04.2015 to 30.06.2017 by invoking the extended period of limitation under proviso to sub-section (1) of Section 73 of the Finance Act, 1994, covering the financial years 2015-16, 2016-17 and 2017-18 up to 30.06.2017, along with applicable interest and penalties under Sections 76, 77 and 78 of the Finance Act, 1994.

8. The matter was thereafter adjudicated by the Ld. Commissioner, Central Goods & Services Tax, Varanasi, vide Order-in-Original No. VNS-EXCUS-000-COMMR-03/2025-26 dated 28.11.2025. The ld. adjudicating authority held that the extended period of limitation was not invocable and, consequently, set aside the demand of Rs.2,08,40,594/- pertaining to

the financial year 2015-16 as time-barred; the penalties proposed under Sections 77 and 78 ibid. were also set aside. However, the adjudicating authority upheld the balance demand of Rs.2,01,05,042/- pertaining to the period 2016-17 to 2017-18 up to 30.06.2017, and imposed a penalty of Rs.20,10,504/- under Section 76 of the Finance Act, 1994, as proposed in the Show Cause Notice.

8.1. The appellant, being aggrieved by the confirmation of the aforesaid balance demand and the consequential penalty, has preferred the present appeal before the Tribunal.

9. The Ld. Counsel representing the appellant, at the outset, submits that the issue involved in the present proceedings is no longer res integra, having already been considered and decided in the appellant's own case in the earlier proceedings involving substantially the same activity and the same question of classification of the underlying services. It is pointed out that the adjudicating authority itself has acknowledged in the impugned order dated 28.11.2025 that the present dispute had earlier been the subject matter of proceedings against the appellant and that the present Show Cause Notice had been kept in the Call Book in view of Final Order No. 71120/2018 dated 23.05.2018 passed by this Tribunal, and was taken up for adjudication only after the Department's appeal against the said Final Order came to be dismissed by the Hon'ble Supreme Court on the ground of low tax effect/monetary limit. The Learned Counsel submits that, notwithstanding the aforesaid position, the adjudicating authority has proceeded to confirm the demand by taking a view contrary to that already expressed by this Tribunal in the appellant's own case. It is contended that the

order of the Tribunal having attained finality, the same was binding upon the Department and the Department could not, in respect of substantially the same activity, adopt a contrary stand before the adjudicating authority. The appellant therefore submits that the impugned order, insofar as it departs from the earlier decision of this Tribunal on the very issue, is unsustainable.

9.1. Without prejudice, and on merits also, it is the submission of the appellant that 'Cargo Handling Service' does not encompass mere transportation of goods, which is specifically covered under the taxable category of Goods Transport Agency Service. It is submitted that, even in cases where composite services such as those rendered by packers and movers involve packing along with transportation, and may additionally include loading, unloading, unpacking or allied activities, their classification is required to be determined having regard to the essential or predominant character of the service; that in the present case, the service recipients had engaged the appellant essentially for transportation of coal within the mining area, transportation being the dominant and essential objective of the transaction; the loading of coal into the tipping trucks through pay loaders was merely incidental to such transportation. Such incidental loading activity, according to the appellant, cannot alter the essential character of the service or convert a transportation service into Cargo Handling Service. It is also pointed out transportation of goods was specifically excluded from the ambit of Cargo Handling Service and that this aspect has not been properly appreciated in the impugned order; that the classification was therefore required to be determined in terms of Section 65A of the Finance Act,

1994, as applicable during the relevant period, on the basis of the service which gave the transaction its essential character. It is further submitted that the appellant itself had consistently understood and treated the activity as transportation of goods and that the corresponding service tax liability under GTA was being discharged by the service recipients, including M/s. Northern Coal Fields Ltd. (NCL); that NCL, being the recipient of the service, had duly discharged service tax under the GTA category, which payment of tax had also been accepted by the Department. The Ld. Counsel accordingly submits that the Service Tax already discharged under the appropriate GTA mechanism was proper and that the same transaction could not again be subjected to service tax under Cargo Handling Service merely because loading of coal was performed by the appellant as an incidental part of transportation.

9.2. In view of the above submissions, the Ld. Counsel for the appellant prayed for setting aside the demand of Service Tax, along with interest and penalty, to the extent confirmed by way of the impugned order, being unsustainable in law.

10. The Ld. Authorized Representative of the Revenue, while reiterating the findings recorded in the impugned order, submits that the activities undertaken by the appellant involved not merely transportation of coal but also loading and handling thereof and were, therefore, appropriately classifiable under the taxable category of Cargo Handling Service. It is contended that the appellant had received substantial consideration towards the said activities without discharging the corresponding Service Tax liability under the appropriate taxable category and that the ld. adjudicating authority has correctly

appreciated the nature of the services and the material available on record. It is therefore his contention that the demand and consequential penalty, to the extent confirmed vide the impugned order, do not warrant interference.

11. Heard both the sides and perused the records available before us.

12. At the outset, it would be pertinent to notice the nature of the activities undertaken by the appellant during the period in dispute. The appellant was engaged by various service recipients, including M/s. Northern Coal Fields Ltd. (NCL) and other contractors associated with mining projects, for transportation of coal within the mining areas and from the coal stockyards/pithead to the designated locations, including the Coal Handling Plant within the premises of NCL. For such transportation, the appellant deployed tipping trucks and the coal was loaded into the said vehicles through pay loaders before being carried to the specified destination. Thus, the activity involved the movement of coal from one identified location to another in accordance with the requirements of the respective work orders. The loading of the coal into the tipping trucks was undertaken only as an ancillary to, and in furtherance of, such movement of the goods to their intended destination.

12.1. From the aforesaid factual position, the essential and predominant character of the activity is clearly discernible as transportation of goods. The circumstance that, in the course of undertaking such transportation, the coal was required to be loaded into the tipping trucks cannot, by itself, result in the activity acquiring the character of ‘Cargo Handling

Service'. We observe that the loading was integrally connected with the transportation and was only an incidental step necessary for carrying the goods from the place of loading to the designated destination. It is the transportation which constituted the predominant object and substance of the engagement and which gave the activity its essential character, which fact is also borne out from the manner in which the transactions were undertaken and the consideration was received by the appellant.

12.2. It is of significance in this context that the statutory definition of 'Cargo Handling Service' itself excludes transportation of goods, which exclusion assumes considerable relevance in this case. A service which, on a consideration of its substance and predominant character, is transportation of goods cannot be brought within the fold of Cargo Handling Service merely because the transportation necessarily involves loading of the goods into the vehicle. The mere presence of an incidental loading activity cannot displace the essential character of the transaction. Even in a composite arrangement where transportation is accompanied by ancillary activities such as loading, unloading, packing or allied operations, the classification has necessarily to have regard to the substance and predominant character of the service actually undertaken. In the present case, the records disclose that the recipients had engaged the appellant essentially for transportation of coal within the mining area and between the specified locations, and the loading through pay loaders was merely incidental thereto. The activity, therefore, cannot, on a proper appreciation of its predominant character, be regarded as Cargo Handling Service.

13. In this regard, we also take note of the fact that the appellant had consistently treated the activity as transportation of goods and had raised its invoices and maintained its records accordingly. The service recipients, including NCL, had discharged the applicable service tax treating the activity as transportation of goods, and, as submitted before us, such payment had also been accepted by the Department. These circumstances, taken cumulatively, reinforce the conclusion that transportation constituted the substance of the activity, whereas the loading of coal was only incidental to such transportation.

14. We are, therefore, unable to concur with the approach adopted in the impugned order whereby the incidental loading of coal has been accorded determinative significance so as to bring the entire activity within the ambit of 'Cargo Handling Service'. Consequently, we are of the view that the activity undertaken by the appellant was, in substance, transportation of goods and did not constitute Cargo Handling Service so as to attract service tax under the said taxable category.

15. The aforesaid view is also fortified by a catena of decisions on the issue. In the case of *M/s. Maa Kalika Transport Pvt. Ltd. v. Commissioner of C.G.S.T. and Central Excise, Rourkela [2023 (79) G.S.T.L. 263 (Tri.-Kolkata)],* this Tribunal has observed that the activity of transportation incidental with loading and unloading cannot be classified under cargo handling service, but is required to considered as transportation service. The relevant portion of the said order is reproduced below: -

"13. We observe that the Ld. Commissioner has arrived at the conclusion that the Appellant has provided multiple services in the form of loading, unloading, handling, providing trucks, obtaining delivery orders obtaining mining permission etc. and hence the services provided are not mere transportation. We observe that the contract is a composite contract primarily for the purpose of transportation of coal beyond 180 to 200 KM. The activities like loading, unloading, obtaining delivery orders etc. are incidental or ancillary to the transportation service. The contract has not provided any separate charges for these activities. The composite contract cannot be vivisected to arrive at the value of service for each activity artificially.

14. We observe that the Board has issued Circular No. 104/07/2008-S.T., dated 6-8-2008, wherein it has been clarified as under :

> *"3. Issue : GTA provides service to a person in relation to transportation of goods by road in a goods carriage. The service provided is a single composite service which may include various intermediary and ancillary services such as loading/unloading, packing/unpacking, transshipment, temporary warehousing. For the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services. In such a case, whether the intermediary or ancillary activities is to be treated as part of GTA service and the abatement should be extended to the charges for such intermediary or ancillary service?*
>
> *Clarification : GTA provides a service in relation to transportation of goods by road which is a single composite service. GTA also issues consignment note. The composite service may include various intermediate and ancillary services provided in relation to the principal service of the road transport of goods. Such intermediate and ancillary services may include services like loading/unloading, packing/unpacking, transshipment, temporary warehousing etc., which are provided in the course of*

transportation by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road. The contention that a single composite service should not be broken into its components and classified as separate services is a well-accepted principle of classification. As clarified earlier vide F.No. 334/4/2006-TRU, dated 28-2-2006 (paras 3.2 and 3.3) and F. No. 334.1/2008-TRU, dated 29-2-2008 (paras 3.2 and 3.3), a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service and accordingly classified. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The method of invoicing does not alter the single composite nature of the service and classification in such cases are based on essential character by applying the principle of classification enumerated in Section 65A. Thus, if any ancillary/intermediate service is provided in relation to transportation of goods, and the charges, if any, for such services are included in the invoice issued by the GTA, and not by any other person, such service would form part of GTA service and, therefore, the abatement of 75% would be available on it."

15. The Board has issued another Circular No. 186/5/2015-ST, dated 5-10-2015 on similar lines. The said clarifications issued by Board are reproduced below :

"3. Goods Transport Agency (GTA) has been defined to mean any person who provides service to a person in relation to transport of goods by road and issues consignment note, by whatever name called. The service provided is a composite service which may include various ancillary services such as loading/unloading, packing/unpacking, transshipment, temporary storage etc., which are provided in the course of transportation of goods by road. These ancillary services may be provided by GTA himself or may be sub-contracted by the GTA. In either case, for the service provided, GTA issues a consignment

note and the invoice issued by the GTA for providing the said service includes the value of ancillary services provided in the course of transportation of goods by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road.

4. A single composite service need not be broken into its components and considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The interpretation of specified descriptions of services in such cases shall be based on the principle of interpretation enumerated in Section 66F of the Finance Act, 1994. Thus, if ancillary services are provided in the course of transportation of goods by road and the charges for such services are included in the invoice issued by the GTA, and not by any other person, such services would form part of GTA service and, therefore, the abatement of 70%, presently applicable to GTA service, would be available on it."

16. The clarifications cited above clearly establishes that when a contract is entered for a composite contract for transportation service including various intermediate or ancillary services provided in relation to the principal service of road transport of goods like loading/unloading, packing/unpacking, transshipment, warehousing etc., which are provided in the course of transportation, such contract cannot be vivisected. It will be treated as a contract for transportation only as the other services are naturally bundled together with the principal service. Accordingly, be relying on the Board Circulars and the decisions cited above, we hold that the contracts are essentially meant for transportation of goods and other activities are naturally bundled along with this principal service. Once the services rendered are classified as Transportation Service, the liability of payment of

service tax on these services was not on the Appellant, as the service recipients in all these cases are Companies registered under Companies Act, 1956/2013, and the liability to pay service tax is on the recipients of service as provided under Rule 2(1)(d)(i)(B) of the Service Tax Rules, 1994.

17. Regarding classification of the service rendered by the Appellant under the category of 'Cargo Handling Service' we observe that Board has issued a clarification as to what type of services will fall under the category of 'Cargo Handling service' and cited certain illustrations of "Cargo Handling Agents" i.e. Container Corporation of India, Airport Authority of India, Inland Container Depot, Container Freight Stations etc. The relevant portion of the said circular is reproduced below :-

> *"3. The services which are liable to tax under this category are the services provided by cargo handling agencies who undertake the activity of packing, unpacking, loading and unloading of goods meant to be transported by any means of transportation namely truck, rail, ship or aircraft. Well known examples of cargo handling service are services provided in relation to cargo handling by the Container Corporation of India, Airport Authority of India, Inland Container Depot, Container Freight Stations. This is only an illustrative list. There are several other firms that are engaged in the business of cargo handling services."*

18. In the instant case, we observe that the Appellant was not providing any of the services mentioned above which fall under the category of 'Cargo Handling Agent Service'……..."

15.1. The said issue has also been examined by this Tribunal in the case of *Naresh Kumar & Company Pvt. Ltd. v. Commissioner of Service Tax, Kolkata [(2025) 6 Centax 414 (Tri. – Cal.)],* wherein, under identical facts and circumstances, the Bench has held as under:-

"12. We have carefully examined the nature of services provided by the Appellant specified in the work order. We find that the essence of the service to be provided by the Appellant is of transportation of dolomite within various locations in the mining area and its final loading into railway wagon which is evident from the scope of services. This constitutes a single taxable service for transportation of dolomite within different locations of the mining area involving incidental loading and unloading and finally loading the same at the railway siding. It is certainly not a case that five separate taxable services have been provided under a single work order. The scope of the work order has to be read and interpreted in the context in which it has been awarded and the specification of separate rates for each subactivity would not render each sub-activity to be a different taxable service. Therefore, separate rates for the various intermediate activities for carrying out this composite service have been provided in the work order. We therefore hold that stand of the Revenue is flawed in treating each sub-service/activity as a separate taxable service, based on separate rates for each of them, without ascertaining the essence of the contract.

13. Having held so, the next question for determination is the essential character of this composite service involving transportation and loading. Once it is found that the services are composite and has elements fitting into the definitions of both the services, recourse is to be taken to Section 65A. We note that Sub-section (2) clause (b) is relevant considering the facts of the case which provides that in case of composite service consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character in so far as this criterion is applicable.

14. We find that four out of the five activities under the work-order viz of (1) Trucking, loading and unloading of dolomite boulders from mines to crusher plant (ii) Haulage to Sonakhan Railway siding through Trucks (ii) Haulage of Dolomite from stock-pile/washery through trucks (iv) Haulage of dolomite from crusher bins to stock piles are primarily for transportation of dolomite within mines and the activity of loading and unloading embedded

therein is merely incidental and a necessity for carrying out the primary/principal services of transportation. We further note that that nearly 83% of the total consideration specified in aggregate for the entire composite service is for these transportation services. Therefore, we have no doubt in holding that the primary and predominant service which gives the essential character to this composite service is the service of transportation. We hold accordingly

15. The Ld. Chartered Accountant for the Appellant has relied on the judgment of the co-ordinate Bench of this Tribunal in the case of Tycoons Industries Pvt. Ltd (supra) which is on identical facts as the Appellant in that case had been providing identical services within mines of TISCO and the demand was confirmed under the service category of cargo handling. The Co-ordinate Bench in Para 11 of its order, after examining the terms of agreement held that the essence of the contract is one for transportation of mineral within mining area and thereafter determined the classification of service in accordance with provisions of Section 65A of the Finance Act 1994. In Para 14 of the Order conclusively held that the activity of the appellants are principally for transportation within the mining area and therefore the gross amount received cannot be taxed under the category of cargo handling service. We are in agreement with the views expressed and the ratio laid therein is squarely applicable in the instant appeal."

16. In view of the foregoing discussion, we hold, on merits, that the activity undertaken by the appellant during the period in dispute was essentially transportation of goods and could not be subjected to service tax by treating the same as Cargo Handling Service.

17. Even otherwise, we find that the issue involved in the present proceedings is no longer res integra, the same having already been considered and adjudicated upon in the appellant's own case in the earlier proceedings, involving substantially the same activity and the same question as to the taxability and classification of the services rendered by the appellant. It is on record that the earlier Show Cause Notice/Demand Notice dated 19.04.2016 covering the preceding period had culminated in the Order-in-Original No. 02/Commr//VNS/20178 dated 05.10.2017 whereby the proceedings initiated against the appellant were dropped. The said adjudication was thereafter carried in appeal by the Revenue before this Tribunal, which, vide Final Order No. 71120/2018 dated 23.05.2018, upheld the order of the adjudicating authority dropping the demand. Aggrieved thereby, the Revenue had preferred an appeal before the Hon'ble Supreme Court. Thereafter, the Department's appeal against the Tribunal's order was disposed of by the Hon'ble Supreme Court vide order dated 20.09.2024 in Civil Appeal No. 4988/2021, on the ground of the applicable monetary limit, the appeal being covered by the Revenue's Circular dated 06.08.2024 whereby the monetary limit had been revised from Rs.2 crores to Rs.5 crores. These circumstances, having been expressly recorded in the impugned order itself, are not matters requiring any further factual ascertainment.

17.1. It is material to note that the present Show Cause Notice is, in substance, periodical in nature, relating to a subsequent period but arising from the same underlying activity and the same controversy regarding its treatment under the service tax law. Indeed, the adjudicating authority itself has

acknowledged this position in the impugned order. It is recorded therein that, in view of the aforesaid Final Order of the Tribunal, the present proceedings had been kept in the Call Book and were taken up for adjudication only subsequently, after the proceedings arising from the Department's appeal before the Hon'ble Supreme Court had attained their stated conclusion. In the aforesaid circumstances, the earlier order of this Tribunal in the appellant's own case, whereby the demand on the very activity was set aside and the order dropping the proceedings was upheld, attained finality. The mere fact that the present proceedings pertain to a subsequent period cannot, in the absence of any demonstrated change in the nature of the activity or in the legal position governing its taxability, furnish a warrant for adopting a contrary view in respect of the very same dispute. The impugned adjudication suffers from a legal infirmity inasmuch as it has proceeded to determine an issue afresh contrary to the binding decision rendered by this Tribunal in the appellant's own case, without bringing on record any material circumstance distinguishing the present proceedings from the earlier ones. The demand, therefore, is unsustainable on this ground as well.

18. In view of the foregoing discussion and findings, the confirmation of Service Tax demand of Rs.2,01,05,042/-, pertaining to the period 2016-17 and 2017-18 up to 30.06.2017, along with the penalty imposed under Section 76 of the Finance Act, 1994, as confirmed in the impugned order, cannot be sustained and is accordingly set aside.

19. The impugned order thus stands set aside to the aforesaid extent.

20. The appeal is, accordingly, allowed, with consequential relief, if any, as per law.

(Order pronounced in the open court on **02.11.2026**)

Sd/-

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd