CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70017 of 2025

(Arising out of Order-In-Original No.47-PC-ST-LKO-2023-24, dated - 01.03.2024 passed by Commissioner, CGST & Central Excise, Lucknow)

M/s G. S. Express Pvt. Ltd. **.....Appellant**
(C-877, Mahanagar, Lucknow, Uttar Pradesh 226006)

VERSUS

Pr. Commissioner, CGST & Central Excise, Lucknow
....Respondent
(Apratyaksh Kar Bhawan, 3rd Floor, B-Block, Vibhuti Khand,
Gomti Nagar, Lucknow, Uttar Pradesh 226001)

AND

Service Tax Appeal No.70016 of 2025

(Arising out of Order-In-Original No.47-PC-ST-LKO-2023-24, dated - 01.03.2024 passed by Commissioner, CGST & Central Excise, Lucknow)

Shri Sandeep Anand **.....Appellant**
(Director of M/s G S Express Pvt. Ltd.,
C-877, Mahanagar, Lucknow, Uttar Pradesh 226006)

VERSUS

Pr. Commissioner, CGST & Central Excise, Lucknow
....Respondent
(Apratyaksh Kar Bhawan, 3rd Floor, B-Block, Vibhuti Khand,
Gomti Nagar, Lucknow, Uttar Pradesh 226001)

APPEARANCE:

Shri Kapil Vaish, Advocate for the Appellant
Shri Jaishankar Prakash Upadhyay, Authorised Representative for the Respondent

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

FINAL ORDER NO.70562-70563/2026

DATE OF HEARING : 13.08.2026
DATE OF DECISION : 02.11.2026

P.K. CHOUDHARY:

The present two appeals have been filed against Order-In-Original No. 47/PC/ST/LKO/2023-24 dated 01.03.2024 passed by the Principal Commissioner, CGST Lucknow. Service Tax Appeal No.70017 of 2025 has been filed by M/s G. S. Express Pvt. Ltd (Appellants No.1) wherein Service Tax demand of Rs. 7,24,12,305/- has been confirmed for the period from April 2016 to June 2017, besides imposition of penalties under section 78, 77(1)(c) and 77(2) of Finance Act, 1994. Service Tax Appeal No.70016 of 2025 has been filed by Mr. Sandeep Anand, Director (Appellant No. 2). Penalty of Rs. 1,00,000/- has been imposed on him under Section 78A of Finance Act, 1994. As both the appeals are arising out of common impugned order, they are being taken up together for hearing.

2. Vide Order dated 01.03.2024, the Adjudicating Authority has confirmed Service Tax demand of Rs. 4.48 crore on forward charge basis and Rs. 2.76 crore on reverse charge basis, besides imposing penalties under Section 77 & 78 of Finance Act, 1994.

3. The summary of demands on forward charge basis is as under –

Sl. No.	Recipients of service	Service Tax demand (Rs./ Lacs)	Nature of service	Issue No.
(i)	Flood work Division, Allahabad	74.1	Construction of Pakka Ghat in front of Saccha Baba Ashram, Allahabad.	1
(ii)	UPRNN Ltd – Medical College	47.7	Construction of Basti Medical College.	2
(iii)	Irrigation Drainage Division, Gorakhpur	97.2	Civil work for restriction of river diversion and flood security	3
(iv)	Irrigation Department, Lucknow.	43.2	Construction of pathway and parking at left ban of Gomti River Front, Lucknow.	4
(v)	Kanpur Development Authority	18.7	Interior decoration of office building of Kanpur Development Authority.	5
(vi)	PWD Electric	2.1	Laying of cobal stone on	6

	Division, Lucknow.		Road	
(vii)	Executive Engineer CD-19, UPAEVP	12.0	Improvement/beautification of 45 MT road at Sapna Enclave	7
(viii)	SK & S Buildtech Pvt Ltd	34.1	Widening and Strengthening of Lucknow – Varanasi Road.	8
(ix)	Ankur Construction	117.6	Sub contract for construction of approach road to UP State Warehousing Corporation	9
	Total	446.7		

4. The summary of demands on reverse charge basis is as under –

Sl. No.	Nature of service	Service Tax demand (Rs./Lacs)	Issue No.
1	Goods transport agency service	0.47	10
2	Legal service	3.35	11
3	Manpower supply/security agency services	152.0	12
4	Works contract service	111.13	13
5	Right to use natural resources	10.02	14
6	Total	276.97	

5. The learned Commissioner, besides confirmation of demand, has also invoked the extended period of limitation and observed that the Appellants were registered with the Department as service provider; they were providing taxable as well as non-taxable services; the fact of non-payment of Service Tax came into the knowledge of the Department only during enquiry; if the DGEI Officers had not initiated the enquiry, the fact of non-payment of Service Tax would not have been unearthed.

6. The learned Chartered Accountant appearing on behalf of the Appellants submitted a Synopsis alongwith a Compilation of relied upon case laws. He referred to Entry No. 12(d), 12A(a),

13(a) & 29(h) of Notification Number 25/2012–ST dated 20.06.2012 and contended that Appellants were eligible for exemption under one or the other entries of the said notification. He also submitted that for raising demand for the period 01-04-2016 to 30-06-2017, Show Cause Notice[1] has been issued on 08-10-2021. The entire demand is beyond the normal period of limitation of 30 months and is barred by limitation. His detailed arguments on each demand are being separately dealt herewith.

7. There is repetitive claim for exemption under Entry No.12(d), 12A(a), 13(a) & 29(h) of Notification No. 25/2012–ST dated 20-06-2012. The relevant entries read as under :-

Entry 12

(d) - canal, dam or other irrigation works.

Entry 12

(a) - a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession.

Entry 13

(a) - a road, bridge, tunnel, or terminal for road transportation for use by general public.

Entry 29

(h) – sub contractor providing services by way of works contract to another contractor providing works contract services which are exempt.

8. The learned Departmental Representative supports the impugned order and contended that the Appellants have not submitted the required documents during investigation.

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

---

[1] SCN

10. The disputes in the present appeal is being discussed issuewise :

11. **A. Construction of Pakka Ghat in front of Saccha Baba Ashram – Allahabad (Issue No. 1)**

11.1 As per the Agreement dated 27-05-2016 with Irrigation Department of U.P. **Irrigation Work Circle**, Flood Work Division, Allahabad, Appellants constructed a Pakka Ghat infront of Saccha Baba Ashram on right bank of River Yamuna at Arail in Allahabad. The contract for Rs. 70.02 crore had been entered. Out of it, Rs. 12.35 crores had been received during April 2016 to March 2017. Appellants claimed exemption under Entry No.12(d) and/or Entry 13(e) of Notification No.25/2012–ST dated 20-06-2012. The learned Commissioner has denied the exemption after observing that the construction of packka ghat at bank of Yamuna River does not fall in the category of canal, dam or other irrigation work.

11.2 Entry No. 12(d) of Notification Number 25/2012–ST dated 20-06-2012 grant exemption from payment of Service Tax on services provided to the Government, by way of construction, repair etc. of canal, dam or other irrigation work. Appellants have submitted a certificate from the office of Superintending Engineer, Flood Work Division, Prayagraj certifying that the said work had been carried out at the Bank of river to avoid dam erosion. We are in agreement with the Appellants that the construction of pakka ghat at the bank of river to avoid erosion of dam is an activity in relation to construction or repair of dam. We, therefore, hold that Appellants were eligible for exemption from payment of Service Tax under Entry 12(d) of Notification Number 25/2012–ST dated 20-06-2012.

12. **Construction of Basti Medical College (Issue No. 2)**

12.1 Appellant constructed a medical college in Basti and received Rs. 7.96 crore during 01-04-2016 to 30-06-2017. The impugned order confirms demand of Service Tax amounting to Rs. 47.79 lacs after observing that w.e.f. 01-03-2015, the

exemption under entry 12(a) of Notification Number 25/2012–ST dated 20-06-2012 is not available and the contract having been executed on 28-12-2016, Appellants are not eligible for the exemption.

12.2 The learned counsel submitted that the main contract had been assigned to U.P. Rajkiya Nirman Nigam Ltd, who in turn had sub-contracted the same to the Appellants on back-to-back basis. They bonafidely believed that they were exempted from payment of Service Tax under entry 12(a) of Notification No.25/2012. They, therefore, did not charge the Service Tax from the main contractor. On confirmation of demand, they took up the matter with the main contractor (U. P. Rajkiya Nirman Nigam Ltd.) who have informed/certified that they have paid Service Tax Rs.61,64,767/- on providing the said service. The learned counsel submits that once Service Tax has been paid by the main contractor, Appellants should not be asked to pay the same again. There is no loss of revenue and the Service Tax payable by them would have been available to the main contractor as. It is a revenue neutral exercise and, on this basis, even the extended period of limitation cannot be invoked. He drew our attention to the decision of this Tribunal in the case of BCC Developers & Promoters Pvt. Ltd. reported in 2017 (52) STR 22 dated 06-02-2017, wherein it has been held that in case Service Tax has been paid by the main contractor, it cannot be demanded from sub contactor as it would amount to double taxation. He, however, fairly concedes that in case of Melange Developers Pvt. Ltd. reported in 2020 (33) GSTL 116, the Larger Bench has held that in absence of any exemption, sub-contractor is liable to pay Service Tax even if main contractor has discharged service tax liability on activity under taken by sub-contractor. He further submits that the said decision of larger Bench had been pronounced much later on 23-05-2019 and that during the relevant period, they *bona-fidely* believed that they were exempted. He referred to the decision of this Tribunal in the case of Vodafone Essar South Ltd. reported in 2020 (43)

GSTL 249, wherein it has been held that extended period of limitation cannot be invoked when the issue of interpretation is involved and conflicting decisions lead to its referral to Larger Bench.

12.2 We have carefully considered the matter and hold that Appellants were not eligible for exemption under Entry 12(a) of Notification No.25/2012 as the said exemption had been withdrawn w.e.f. 01-03-2015. On the issue of payment of Service Tax by the main contractor, we find that there have been several decisions holding that once Service Tax had been paid by the main contractor, it is not required to be paid by the sub-contractor. However, this issue has finally been decided against the Appellants vide larger Bench order in case of Melange Developers Pvt. Ltd. (Supra). However, we agree with the Appellants that in view of the conflicting decisions, the extended period of limitation could not have been invoked. We, therefore, hold that demand is liable to be set aside on the ground of limitation.

13. **Civil work for restriction of river diversion and flood security (Issue No. 3)**

13.1 The SCN proposed to demand Service Tax on the ground that work order/agreement were not submitted by the Appellants. During adjudication, Appellants submitted a contract and informed that they executed the work of flood security and diversion of river. They claimed exemption under Entry No. 12(d) of Mega Exemption under Notification No.25/2012. The Adjudicating Authority observed that Appellants have not submitted copy of agreement or contract, rather they have submitted a letter dated 06-06-2015 issued by Superintending Engineer, Irrigation Drainage Department, Gorakhpur stating about registration of agreement for construction of flood protection work at Kolia Bandh. He further noticed that letter states that work is to be completed by 20-07-2015; thus, there is no co-relation between the work done in 2015 and amount

received in the year 2016-17 and 2017-18. He, therefore, did not allow exemption under Entry 12(d) of Notification No. 25/2012.

13.2 Appellants have submitted that the Irrigation Department had assigned job of flood security and to restrict river diversion between 6.516 to 7.135 km on left side of Rapti River in Gorakhpur. On perusal of the Letter dated 06-06-2015 and corresponding work schedule, we note that the Irrigation Department had assigned the job of flood security which was to be executed by 20-07-2015. Later on, in terms of Letter dated 12-09-2017, the period of the contract stands extended to 30-06-2017. Therefore, payment received from irrigation drainage division, Gorakhpur is fully co-related with the Contract dated. 06-06-2015. Admittedly, the services have been provided to Government in relation to flood security and the same is covered under Entry 12(d) of Notification No. 25/2012 which exempts construction services relating to canal, dam and other irrigation work. We, therefore, hold that Appellants were eligible for exemption from payment of Service Tax under Entry 12(d) of Notification No. 25/2012 for carrying out civil work relating to flood security.

14. **Construction of pathway and parking at left bank of Gomti River Front, Lucknow (Issue No. 4)**

14.1 Appellants received a contract for construction of concrete pathway and parking at the Bank of Gomti River in Lucknow. They claimed exemption from payment of Service Tax on the ground that pathway is in the nature of public road and is covered under Entry 13(a) of Notification No. 25/2012.

14.2 The Learned commissioner denied the exemption after observing that construction of pathway and parking cannot be considered to be public road.

14.3 Appellants have produced a certificate from the office of Superintending Engineer, Irrigation Department, Lucknow

certifying that the construction of concrete pathway is in the nature of public road which is used by tourist/general public coming to the Bank of Gomti River.

14.4 We find that the construction of concrete pathway is nothing but a public road. Entry 13(a) of Notification No. 25/2012 grants exemption from payment of Service Tax on construction/repair of road for use by general public. We, therefore, hold that Appellants were eligible for exemption from payment of Service Tax under Entry 13(a) of Notification No. 25/2012–ST dated 20-06-2012 on construction of concrete pathway and parking at the Bank of Gomti River, Lucknow.

15. **Interior decoration of office building of Kanpur Development Authority (Issue No. 5)**

15.1 Kanpur Development Authority allotted a contract for interior decoration/renovation of office building at Kanpur. Appellants claimed exemption from payment of Service Tax under Entry 12A(a) of Notification No.25/2012.

15.2 The said Entry 12A(a) reads as under –

> **"12A-** Services provided to the Government, a local authority or a governmental authority by way of construction**,** erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of—
>
> (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession"

15.3 The learned Commissioner disallowed the exemption after observing that the said Entry 12A(a) grants exemption to the `Original Work' and that the work mentioned in the contract was interior decoration of office building of KDA which does not fall in the category of `Original Work'.

15.4 On carefully perusing Entry 12A(a), we note that the exemption is available when construction or repair is carried out on a civil structure for Governmental authority. There is no dispute that Kanpur Development Authority is a Governmental Authority. The activity of interior decoration is in the nature of repairing of civil structure. We, therefore, hold that the Appellants were exempted from payment of Service Tax under Entry 12A(a) of Notification No. 25/2012 on interior decoration of office building of Kanpur Development Authority.

16. **Laying of cobble stone on Road (Issue No. 6**)

16.1 Appellants received a contract for laying of cobble stone on the road between Teela Wali Masjid to Jama Masjid Road, Shish Mahal Road, Durga Devi Road. Appellants claimed exemption under Entry 13(a) of notification No. 25/2012.

16.2 The Commissioner disallowed the exemption on the ground that the contract is unsigned and the ledger submitted by Appellant is in the name of PWD Electric Division, whereas letter head of contract mentioned PWD Lucknow circle.

16.3 Appellants submitted that in the present case, two main jobs were involved – shifting of electric poles for widening the road and laying of cobble stone. The learned counsel drew our attention to the bond and work schedule which is duly signed by the officers of Public Works Department of U.P. He submitted that work relating to shifting of electric poles is handled by electric division of P.W.D. However, work relating to construction of road is handled by road division of PWD. The total contract is for more than 34 cr. Out of it amount of Rs.14.05 Lacs had only been received during the relevant period. As the amount was received

from Electrical Division of PWD, it has been accounted for in the books as receipt from PWD Electric Division, Lucknow.

16.4 From perusal of documents produced by the Appellants, we hold that the entire work is related to construction/repair of public road in Lucknow and therefore Appellants are eligible for exemption under Entry 13(a) of Notification No. 25/2012 dt.20-06-2012.

17. **Improvement/beautification of 45 MT road at Sapna Enclave (Issue No. 7).**

17.1 Appellants received a contract for Rs. 3.63 crore for upgradation/ beautification work of 45 mtrs road at Sapna Enclave in Vrindavan Yojana No 4 Lucknow. They claimed exemption under Entry 13(a) of Notification No. 25/2012 dt. 20-06-2015.

17.2 Commissioner disallowed the exemption after observing that road at Sapna Enclave is not meant for general public. He referred to education guide, wherein it is clarified that construction of roads which are not for general public use eg. construction of roads in factory, residential complex etc. would be taxable.

17.3 The learned counsel submitted that UP Avas Vikas Parishad Developed Vrindavan Yojana in a huge area in Lucknow. Thousands of houses have been constructed therein. All the internal roads are the public roads and there is no basis for the Commissioner to hold it to be not the public road. He also produced google map to demonstrate that Vrindavan Yojana has been developed in a huge area and sapna enclave is a part of that Vrindavan Yojana.

17.4 In view of the submissions made by the learned counsel, we find that there is no basis for the Commissioner to opine that road in Sapna Enclave are not meant for general public. These are not the construction of roads in factory, residential complex etc. On perusing the google map, we are of the view that roads in Sapna enclave cannot be considered to the Private road and

they are meant for use by general public. Thus, exemption under Entry 13(a) of Notification No. 25/2012 dt.20-06-2012 is allowable to the Appellants.

18. **Widening and Strengthening of Lucknow – Varanasi Road (Issue No. 8)**

18.1 M/s SKS Buildtech obtained contract for widening & strengthening of Lucknow – Varanasi Road (11 – 13 km) from PWD, Lucknow. Part of the said contract had been sub contracted to the Appellants. Appellants have claimed exemption under Entry 13(a) of notification No. 25/2012 dt.20-06-2012.

18.2 The learned Commissioner observed that Appellants have submitted one page contract which is unsigned and work has been mentioned as widening and strengthening of Lucknow – Varanasi Road. However, in ledger, the amount has been mentioned as Rs. 22295185/- and in the Appellants voucher the work has been mentioned as road work at Telibagh. He therefore denied the exemption under Entry 13(a) of Notification No. 25/2012 dt.20-06-2012.

18.3 The learned counsel for the Appellants submitted that the total contract was for Rs. 21.22 crore. Out of it, Appellants received Rs. 2.27 crore from M/s SKS Buildtech for widening & strengthening of road at Telibagh. Drawing our attention to the copy of invoice and ledger account, he submits that there is no contradiction and clarified that Telibagh is an area in Lucknow on Lucknow – Varanasi Road. He also drew our attention to the certificate issued by M/s SKS Buildtech certifying that they had paid amount of Rs. 2.27 crore to the Appellants towards construction of public road.

18.4 In view of the documents produced by the Appellants, we find that there is no contradiction and hold that Appellants are eligible for exemption from payment of Service Tax under Entry 13(a) of Notification No. 25/2012 dt.20-06-2012.

19. **Sub contract for construction of approach road to UP State Warehousing Corporation (Issue No. 9)**

19.1 M/s Ankur Construction obtained a contract for construction of approach road at Agra, Etah, Deoria and Gonda for UP State Warehousing Corporation. These contracts had been sub contracted to the Appellants on back-to-back basis. The Commissioner has denied the exemption under Entry 13(a) after observing that approach road cannot be considered as road used for general public. The learned counsel submitted that construction of approach road to the godown of Uttar Pradesh State Warehousing Corporation is in the nature of public road and is exempted from payment of Service Tax under Entry 13(a) of Notification No. 25/2012 dated 20-06-2012. We are of the view that there is no basis to hold that the approach road to the godown of UP State Warehousing Corporation is not a public road. We therefore hold that Appellants are eligible for exemption under Entry 13(a) of Notification No. 25/2012 dated 20-06-2012.

20. **Service Tax on Goods transport agency service (Issue No. 10)**

20.1 The learned Commissioner has confirmed demand of Service Tax Rs. 47300/- on reverse charge basis on availing goods transport agency services.

20.2 The learned counsel for the Appellants submitted that they were not liable for payment of Service Tax on the amount of freight charged by the suppliers in the invoices for supply of goods; discount and rebate wrongly debited to freight account; loading & unloading charges debited to freight account and individual payment less than Rs. 1500/-. He however fairly conceded that amount of Rs. 3.23 lacs paid to Kanpur Bangalore Freight Carrier was liable to Service Tax (about Rs. 10000/-). He

further submits that the said demand would be barred by limitation.

20.3 We observe that the amount paid for availing goods transport agency services were only liable for payment of Service Tax. Amounts paid for loading and unloading expenses or the amounts charged by the supplier of goods in their invoices are not liable for payment of Service Tax. We shall separately deal with the issue of limitation with regard to demand of Rs. 10000/- on the freight paid to Kanpur Bangalore Freight Carrier.

21. **Service Tax on legal services (Issue No. 11)**

21.1 Service Tax of Rs. 335351/- has been demanded on availing legal services. The learned counsel has drawn our attention to the ledger account and explained that Service Tax on reverse charge basis was not payable on the amounts paid to company secretary, CA, Architect; payments towards bank charges, stamp paper etc. He however fairly conceded that amount of Rs. 32000/- paid to Zafar Ali Advocate, (Service Tax Rs. 4800/-) was liable for payment of Service Tax on reverse charge basis.

21.2 Notification No. 30/2012-ST dt. 20-06-2012 provides for payment of Service Tax on reverse charge basis in respect of services provided by an advocate to any business entity. We therefore agree to the learned counsel that payments to company secretary, CA, Architect etc. was not liable for payment of Service Tax on reverse charge basis. We shall separately deal with the issue of limitation with regard to demand of Rs. 4800/- on payments to advocate.

22. **Payments towards labour charges (Issue No. 12)**
Payments towards sub contractors (Issue No. 13)

22.1 The Commissioner has held that Appellants were liable for payment of Service Tax on reverse charge basis on the amount

debited under the head labour charges. He observed that labour are mostly provided by the contractor in the construction Industry. Similarly, the Commissioner has demanded Service Tax on the amount debited under the head sub contract expenses. It has been observed that Appellants have availed works contract service on which Service Tax is payable on reverse basis.

22.2 The learned counsel for the Appellants submitted that for carrying out construction activity, they hire labour on daily basis. These amounts are debited to the labour charges account. The amounts so paid do not fall in the definition of manpower supply. In some case cases, the job of construction is assigned to the sub-contractor. Amounts paid to these sub-contractors are debited to sub contract expenses. TDS under Income Tax Act is duly deducted on the same. He submits that entire material is provided by the Appellants and the services provided by sub-contractor do not fall in the definition of works contract service. In this connection, our attention was drawn to the Profit & Loss Account wherein amount of Rs. 134.24 crore has been debited to material consumed account.

22.3 We find that as per Notification No. 30/2012 –ST dt. 20-06-2012, Service Tax is payable on the amounts paid for supply of manpower. In the pre-negative list era, manpower supply used to be considered as the one where labour is provided on hourly basis or on certain time basis. In case of payments debited under the head labour charges, amounts have not been paid towards manpower supply. It is only the assumption of the learned Commissioner that the amounts debited under the head labour charges is towards manpower supply. During investigation, department has not been able to identify any contract for which payment has been made towards manpower supply. The onus to prove that the amount debited under the head labour charges is towards manpower supply services is on the department. Service Tax cannot be demanded on assumption. We therefore set aside the demand of Service Tax

on the amount debited on the head labour charges on the assumption that it is manpower supply.

22.4 In respect of amounts debited under the head sub-contract expenses, demand has been raised on the assumption that sub-contractors have provided works contract basis. During investigation department has not been able to identify any contract when subcontractor have provided works contract services. Onus to prove that sub-contractors' services were in the nature of works contract services, is on the department Service Tax cannot be demanded on assumption. We therefore set aside the demand of Service Tax on the amount debited under the head sub-contract expenses.

23. **Right to use natural resources on royalty (Issue No. 14)**

23.1 The learned Commissioner observed that PWD department, Avas Vikas Parishad and Irrigation Department have deducted some amounts towards royalty. In terms of Notification No. 30/2012-ST dated 20-06-2012, Service Tax in such cases is payable by service recipient under reverse charge mechanism.

23.2 The learned counsel submitted that Appellants are mainly engaged in construction of road for clients like PWD, Irrigation department and Avas Vikas Parishad. At the time of making payments they deduct some amount towards royalty. He drew our attention to a payment slip of UP Public Work Department wherein while sanctioning payment of Rs. 60.23 lacs, they have deducted amount of Rs. 220890/- towards royalty. He contended that they have not obtained the mining rights from any of these departments nor have they obtained any right to use natural resources. He submits that in the process of constructing the roads, Appellants procured various items like sand, brick, soil etc. from the open market. In these cases, they do not have to pay any royalty to the Government. He also argued that during the course of investigation, department has not identified any

contract with the Government for right to use natural resource. Simply because some amount has been deducted in the name of royalty, GST cannot be demanded from them.

23.3 We note that in view of the amendment to negative list Entry 8(iv) of section 66D, services provided by Government had become taxable w.e.f. 01-04-2016. Consequently, business entities availing services from the Government became liable for payment of GST on reverse charge basis under Notification No.30/2012-ST dated 20-06-2012. The main issue here is as to whether Appellants have availed services provided by the Government. The adjudicating authority has assumed that amount deducted under the head royalty by UP Avas Evam Vikas Parishad, PWD and irrigation department is towards right to use natural resources. Department has not been able to identify any particular transaction of right to use natural resources. The entire demand has been raised on the assumption that the amounts debited under the head royalty is towards right to use natural resources. Moreover, Avas Vikas Parishad is neither Government nor local authority. Therefore, amounts deducted by them cannot fall in the category of services provided by the Government Demands having been raised on assumption are hereby set aside.

24. **Extended period of limitation –**

24.1 The learned counsel for the Appellants submitted that for demanding Service Tax for the period 01-04-2016 to 30-06-2017, show cause notice had been issued on 08-10-2021. Entire demand is beyond the normal period of limitation. He submits that the Appellants have regularly been filing Service Tax returns; it is a dispute on interpretation of provision of Service Tax law; there is no suppression or fraud on their part; all the amounts were duly recorded in their books of account. He therefore argued that extended period of limitation could not

have been invoked. He referred to various case laws on the subject.

24.2 We find that all the issues in present appeal involve interpretation of provision of Service Tax law. This tribunal in the case of M/s Shervani Industries Syndicate Ltd. reported in 2009 (14) S.T.R. 486. (Tri–Delhi), has held that extended period of limitation is not invocable when there is scope of difference in interpretation. Para 14 of the order reads as under:-

> "However, we find force in the submissions of the learned Advocate that there was scope for difference in interpretation and hence for entertaining a view that there was no levy of tax and therefore, the demand of tax for the extended period of limitation would not be applicable. We also noted that the issue involved in this case is the interpretation of the provision of the Finance Act and the penalties are not warranted. Accordingly, the demand of tax for the normal period of limitation is upheld. Penalties are set aside. The appeal is disposed of in the above terms."

24.3 In case of International Merchandising Company reported in 2022 (67) GSTL 129. The hon'ble Supreme Court has hold that extended period of limitation was not invokable when dispute involved interpretation of statutory provision. Para 24 of the order reads as under:–

> "We are of the considered view that the Tribunal having come to the conclusion that the issue turned upon an interpretation of the provisions of Section 65(68) and Section 65(86b) of the Finance Act, 1994, there was no warrant to allow the invocation of the extended period of limitation and to direct the determination of the penalty following the re-quantification of the demand. The extended

> period of limitation would clearly not stand attracted in respect of the first show cause notice dated 20 October, 2009. The show cause notice shall hence have to be confined to the normal period of limitation excluding the extended period".

24.4 In case of Rungta Sons Pvt Ltd reported in 2024 (22) Centax 495, this tribunal has held that extended period of limitation is not invokable when proceedings were initiated on the basis of audit of books of account and scrutiny of Profit & Loss Account, when no fresh material was brought by department to allege any suppression of facts. Para 11 of the order reads as under :-

> "The Appellant also contested the demand confirmed in the impugned order on the ground of limitation. They contended that the entire demand is barred by normal period of limitation. Accordingly, they contended that the demand confirmed is not sustainable. Also, there is no suppression of fact with intention to evade the tax established in this case and hence imposition of penalty is not warranted in the facts and circumstances of the case. We observe that the dispute in the instant case relates to the period from 2008-09 to 2009-10 whereas the impugned Show Cause Notice was issued on dated 23-07-2012. The instant proceeding is initiated on the basis of Audit of Books of Accounts and scrutiny of Profit & Loss A/c. [Schedule XV (Other Income)] of the Appellant. No fresh material is brought by the Department to allege any suppression of facts with intention to evade the tax. Accordingly, we hold that the entire demand is barred by normal period of limitation of one year and hence the demands confirmed in the impugned order are liable to be set aside on the ground of limitation also".

24.5 In case of G D Goenka Pvt. Ltd. vide Final Order No. 51088/2023 dated 21-08-2023, this tribunal has held that extended period of limitation could not have been invoked when

Assessee has regularly been filing ST-3 returns. Similar view has been taken in case of Munna Constructions reported in 2025 (26) Centax 476.

24.6 Keeping in view the aforesaid decisions we hold that the extended period of limitation could not have been invoked as there is no element of fraud or suppression; Appellants have regularly been filing ST-3 Returns and entire information has been taken from Appellants books of account. The entire demand being beyond the normal period of limitation is liable to be set aside on the ground of time barred.

25. As we have held that the entire demand is liable to be set aside both on merits and on limitation, penalties imposed under Section 77 & 78 on Appellant No. 1 are liable to be set aside. For the same reasons, penalty imposed on Mr. Sandeep Anand (Appellant No. 2) is also set aside.

26. In view of above discussions, we set aside the impugned order and allow both the appeals with consequential relief, as per law.

(Pronounced in open court on 02.11.2026)

Sd/-

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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

Nihal