IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Service Tax Appeal Nos. 41762 & 41764 of 2017

(Arising out of Order-in-Appeal No. 64/2017 dated 28.4.2017 passed by the Commissioner (Appeals – I), LTU, Chennai)

Neyveli Lignite Corporation **Appellant**
Central Administration / Corporate Office
Block – 1, Neyveli TS 607 801.
Cuddalore District.

Vs.

Commissioner of GST & Central Excise **Respondent**
No. 1, Williams Road
Trichy – 620 001.

APPEARANCE:

Shri M.V. Vishal Sundar, Advocate for the Appellant
Smt. G. Krupa, Authorised Representative for the Respondent

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER NOS. 41222 & 41223/2026

Date of Hearing: 02.06.2026
Date of Decision: 26.11.2026

Per M. Ajit Kumar,

Both these appeals are filed against Order-in-Appeal No. 64/2017 dated 28.4.2017 passed by the Commissioner (Appeals – I), LTU, Chennai.

Brief Facts of the Case

The Appellant, M/s Neyveli Lignite Corporation (**NLC**), a Navratna category Government of India Enterprise, operates open-cast lignite mines and thermal power stations, primarily utilising the excavated lignite for electricity generation. It is registered with the Service Tax Department for providing various services and discharges applicable

Central Excise duty. The Central Industrial Security Force (**CISF**), DIG Unit, Neyveli, provides security services to the Appellant and had been raising bills towards the cost of security personnel, along with applicable service tax, which was duly remitted to the Government till August 2012. While CISF was liable to discharge service tax on such services until 30.06.2012, the introduction of the Negative List regime with effect from 01.07.2012 shifted the tax liability to the Appellant as the service recipient. During the audit of CISF, the Department noticed that the Appellant had provided additional facilities and consideration, including rent-free accommodation and office premises, electricity, water, vehicles, fuel, medical facilities, forms and stationery, over and above the amounts charged through invoices. The Department alleged that service tax was payable on the value of these additional facilities. Accordingly, two Show Cause Notices dated 04.09.2014 and 01.10.2014 were issued in respect of the Appellant's Neyveli and Barsinger units, respectively, for the period July 2012 to March 2014. The Adjudicating Authority confirmed demands of ₹44,93,376 and ₹6,40,719, respectively, under Section 73(1) of the Finance Act, 1994, along with interest and penalties under Section 76. On appeal, the Commissioner (Appeals) upheld the demands, except in respect of vehicles, for which verification of supporting documents was directed. Aggrieved by the said order, the Appellant has preferred the present appeal before this Tribunal.

3. The Ld. Advocate Shri M.V. Vishal Sundar appeared for the appellant and Ld. Authorized Representative Smt. G. Krupa appeared for the respondent.

Submissions made by the Appellant

3.1 Shri M.V. Vishal Sundar the Ld. Counsel for the appellant at the outset submitted a table capturing the synopsis of the issue and is reproduced below.

SYNOPSIS

Period	July 2012 to March 2014 (impugned period)
Impugned Order	Order-In-Appeal No. 64/2017 dated 28.04.2017 (Impugned Order')
Show Cause Notice	SCN No LTUC/287/2014 ADC dated 04.09.2014 (SCN dated 04.09.2014'), for Neyveli unit.
	SCN No LTUC/297/2014 ADC dated 01.10.2014 ('SCN dated 01.10.2014), for Barsingar unit.
Order in Original	Order in Original No. LTUC/ 60-61/ 2015-ADC dated 12.02.2015
Demand	Rs.31,53,820/-
Penalty	As per sec. 76 of the Finance Act, 1994
Interest	As per Sec. 75 of the Finance Act, 1994
Period barred by limitation	SCN dated 4.9.2014 July 2012 to September 2012 SCN dated 1.10.2014 July 2012 to September 2012
Issue in brief	Demand of service tax on expenditure relating to medical reimbursement, rent free accommodation, electricity/water expenses, rent free office building, supply of vehicles, supply of fuel, supply of forms and stationery which were incurred by the service recipient (i.e., Appellant) while security services were provided by the Central Industrial Security Force ('CISF').

The Ld. Counsel further submitted:

A. M/s. NLC is operating lignite mines and thermal power stations. The security of its industrial establishments was entrusted to the CISF, constituted under the Central Industrial Security Force Act, 1968. Pursuant to Section 14 of the said Act, CISF personnel were deputed to the Appellant's units, and a Memorandum of Understanding dated 27.10.2011 was executed between the parties.

B. Under Clause 23 of the MoU, the Appellant was required to bear the deployment costs, including salaries, allowances, pension contributions, training, supervision, clothing, equipment and other agreed expenses. In addition, under Clauses 3, 7 and 20 of the MoU, the Appellant was required to provide certain infrastructural and ancillary facilities, including residential and office accommodation, electricity, water, communication facilities, transport, medical facilities and other amenities, to facilitate the deployment of CISF personnel.

C. Following an audit of CISF's accounts, the Department issued two Show Cause Notices dated 04.09.2014 and 01.10.2014 in respect of the Appellant's Neyveli and Barsingsar units, respectively, for the period July 2012 to March 2014. The Department alleged that the monetary value of the facilities provided by the Appellant constituted additional consideration for the security services rendered by CISF and was accordingly includible in the taxable value under Section 67 of the Finance Act, 1994, read with Rule 3 of the Service Tax (Determination of Value) Rules, 2006.

D. The value of the facilities provided to CISF cannot be included in the gross amount charged for the security services under Section 67 of the Finance Act, 1994. The scope of the services rendered by CISF was confined to the deployment of security personnel, and the consideration payable for such services was expressly stipulated under Clause 23 of the MoU.

E. Service tax on the amounts invoiced by CISF towards deployment costs has already been duly discharged, and there is no dispute in this regard. The additional facilities provided under the MoU

were merely contractual obligations intended to facilitate the performance of security services and did not constitute consideration or any additional amount charged by CISF.

F. In support of this contention, reliance on the judgment of the Hon'ble Supreme Court in **Commissioner of Service Tax Vs Bhayana Builders (P) Ltd**. [2018 (2) TMI 1325 (S.C.)], wherein it was held that service tax under Section 67 is chargeable only on the gross amount charged by the service provider and that the value of goods or facilities supplied free of cost by the service recipient cannot be included in the taxable value. The Appellant also relies on **Union of India Vs Intercontinental Consultants and Technocrats Pvt. Ltd**. [2018 (3) TMI 357 (S.C.)], for the proposition that only consideration received as quid pro quo for the taxable service can form part of its assessable value. Further, reliance is placed on the Larger Bench decision in **CST Vs Repco Home Finance Ltd**. [2020 (42) G.S.T.L. 104 (Tri. LB)], which recognises that contractual obligations imposed upon a service recipient do not, merely by virtue of being such obligations, constitute consideration for the services rendered.

G. The issue is no longer res integra and stands settled by several decisions of the Tribunal, including Bharat Coking Coal Ltd. Vs Commissioner of Central Excise and Service Tax, Dhanbad, 2021 (9) TMI 23 (CESTAT Kolkata); CCE, Dehradun Vs Commandant, CISF, 2019 (2) TMI 1175 (CESTAT New Delhi); CISF, Allahabad Vs CCE, 2019 (1) TMI 1661 (CESTAT Allahabad); CISF v. Commissioner of Service Tax, Pune, 2021 (11) TMI 835 (CESTAT Mumbai); and Sr. Commandant, CISF (BHEL Unit) Vs CCE, Bhopal, 2023 (4) TMI 608

(CESTAT New Delhi). It is also pointed out that the Hon'ble Tribunal, in M/s. **Central Industrial Security Force, DIG Unit Vs Commissioner of CGST & Central Excise**, 2024 (4) TMI 1285 (CESTAT Chennai), has specifically held that the notional value of free accommodation and reimbursable expenses towards medical services, vehicles and telephone charges cannot be included in the gross taxable value of security services. Reliance is also placed on the subsequent decision in The **Commandant Vs Deputy Commissioner of GST and Central Excise, Salem Commissionerate** 2025 (7) TMI 280 (CESTAT Chennai), wherein similar facilities were held to be contractual amenities and not includible in the taxable value. The Appellant further cites **Central Industrial Security Force Vs Commissioner of CGST, Panchkula**, 2026 (3) TMI (CESTAT Chandigarh), in support of its contention.

H. On this basis, Rule 3 of the Valuation Rules has no application, since the consideration payable under the MoU is ascertainable and has already been subjected to service tax. The facilities in question do not constitute consideration in the first place, and their notional value cannot be brought to tax by resorting to the valuation rules.

I. The present issue involves interpretation of the scope of Section 67 and the valuation provisions, and there was no wilful suppression or intent to evade payment of service tax. The Appellant relies on Haldia Petrochemicals Ltd. Vs CCE, 2006 (197) E.L.T. 97 (Tri.); Secretary, Town Hall Committee Vs CCE, Mysore, 2007 (8) S.T.R. 170 (Tri. Bang.), affirmed by the Karnataka High Court in 2011 (24) S.T.R. 172 (Kar.); Mangalore Refinery and Petrochemicals Ltd. v. CCE & ST,

2015 (40) S.T.R. 1093 (Tri. Bang.); CCE, Dehradun Vs Commandant, CISF (supra); BSNL v. CCE, Ahmedabad, 2009 (14) S.T.R. 359 (Tri. Ahmd.); and CCE, Allahabad Vs Bharat Yantra Nigam Ltd., 2014 (36) S.T.R. 554 (Tri. Del.), to contend that allegations of suppression and intent to evade tax are unsustainable, particularly in the absence of any evidence of deliberate evasion by a Government undertaking.

J. Accordingly, the Appellant submits that the extended period of limitation is not invocable, the demands are unsustainable on merits, and consequently, the interest and penalties imposed are also liable to be set aside.

Submissions made by the Respondent-Revenue

3.2 Smt. G. Krupa, Ld. Authorized Representative submitted on behalf of Revenue that:

A. The Appellant was engaged in excavation and other operational, administrative and logistical activities and had availed security services from CISF, which constituted support services within the meaning of Section 65B(49) of the Finance Act, 1994. With effect from 01.07.2012, Rule 2(1)(d)(E) of the Service Tax Rules, 1994, made the recipient of support services provided by the Government or a local authority to a business entity located in the taxable territory liable to discharge service tax under the reverse charge mechanism.

B. CISF, being a Central Government organisation functioning under the Ministry of Home Affairs and entrusted with the responsibility of providing industrial security, squarely fell within the ambit of the expression 'Government'. Reliance was placed on Sections 3(8) and 3(23) of the General Clauses Act, 1897, Article 53 of the Constitution

of India and Section 3 of the CISF Act, 1968, which constitutes CISF as an armed force of the Union maintained by the Central Government. It was therefore submitted that the Appellant's contention that CISF was merely a statutory creation and not the Government was misconceived.

C. The Appellant had already accepted its liability to pay service tax under reverse charge on the security services received from CISF and that the dispute was confined only to the additional consideration provided to CISF.

D. The value of facilities provided by the Appellant, including rent-free residential and office accommodation, electricity, water, vehicles, fuel, medical facilities, communication facilities, forms and stationery, was includible in the taxable value under Section 67 of the Finance Act, 1994, read with Rule 3 of the Service Tax (Determination of Value) Rules, 2006. Although CISF had deployed security personnel and the Appellant had paid service tax on the amounts invoiced towards their deployment, the consideration for the services was not confined to such monetary payments.

E. The additional facilities constituted consideration in kind for the security services rendered by CISF, particularly since the Appellant had acknowledged its contractual obligation to provide them under the MoU. The monetary equivalent of such facilities was required to be included in the taxable value.

F. The Appellant's contention that these facilities were in the nature of statutory fees towards deployment costs, observing that the provision of accommodation, medical treatment, stationery and

communication facilities could not be characterised as statutory fees, was not correct.

G. As per Explanation (a) to Section 67 of the Finance Act, 1994, which provides an inclusive meaning of consideration, and Section 2(d) of the Indian Contract Act, 1872, defining consideration to include an act, abstinence or promise undertaken at the desire of the promisor.

H. The MoU executed between the Appellant and CISF, together with its appendices and annexures, expressly obligated the Appellant to provide accommodation, transport, communication equipment, security gadgets, infrastructure, office furniture and other facilities. These obligations, according to the Revenue, constituted consideration furnished in exchange for the security services rendered by CISF, and their monetary value was therefore liable to be included in the assessable value for service tax purposes.

I. The alternative contention that the value of the facilities should be treated as a cum-tax consideration, was also contested. It pointed out that, under Clause 23 of the MoU, the Appellant had expressly agreed to bear the entire cost of deployment of CISF personnel, including all applicable Central and State Government taxes. Having accepted this contractual obligation in its reply to the show cause notice, the Appellant could not subsequently contend that the value of the additional facilities should be treated as inclusive of service tax. Accordingly, the monetary value of the additional facilities was includible in the taxable value and that the Appellant was liable to discharge the corresponding service tax under the reverse charge mechanism.

K. The Ld. A.R. prayed that the appeal may be rejected.

Issues for Consideration

4. We have carefully considered the submissions made by the Ld. Counsel for the Appellant and the Ld. Authorized Representative for the Revenue, examined the records of the case and perused the impugned order. The issues that arise for our consideration are:

(i) Whether the value of facilities provided by the Appellant to CISF, such as rent-free accommodation, electricity, water, medical facilities, vehicles, fuel, office accommodation, forms and stationery, is includible in the taxable value of security services under Section 67 of the Finance Act, 1994, read with Rule 3 of the Service Tax (Determination of Value) Rules, 2006.

(ii) Whether the extended period of limitation under Section 73(1) of the Finance Act, 1994, has been correctly invoked.

(iii) Whether the Appellant is liable to pay interest and penalty under Sections 75 and 76 of the Finance Act, 1994.

Discussion and Findings

5. We find that the factum of CISF providing security services to the Appellant and the Appellant discharging service tax on the deployment charges invoiced by CISF are not in dispute. The dispute essentially concerns the taxability of the additional facilities extended by the Appellant to CISF personnel over and above the monetary consideration charged under the MoU dated 27.10.2011. We find that while the impugned order mentioned the confirmed demands to be Rs 44,93,376 and Rs 6,40,719, the Appellant in the synopsis has mentioned the amount as Rs 31,53,820.

5.1 The Revenue has proceeded on the premise that such facilities constitute additional consideration for the security services rendered by CISF and that their monetary equivalent is includible in the taxable value under Section 67 of the Finance Act, 1994, read with Rule 3 of the Valuation Rules. The Appellant, on the other hand, contends that these facilities are merely contractual and operational arrangements intended to facilitate the deployment of CISF personnel and cannot be treated as consideration for the services rendered.

6. At the outset, we observe that with effect from 01.07.2012, services provided by the Government to a business entity, subject to the exclusions specified therein, were brought under the reverse charge mechanism by virtue of Rule 2(1)(d)(E) of the Service Tax Rules, 1994. The Appellant does not dispute its liability to discharge service tax under the reverse charge mechanism in respect of the security services received from CISF. Therefore, the question whether CISF is an organisation functioning under the Central Government and whether the Appellant is liable to pay service tax as the recipient of such services does not require any further examination in these appeals. The controversy is confined to the determination of the taxable value of the services.

7. We now proceed to examine whether the facilities provided by the Appellant constitute consideration within the meaning of Section 67 of the Finance Act, 1994. Section 67 provides for levy of service tax on the value of taxable services, which is determined with reference to the gross amount charged by the service provider. Explanation (a) to Section 67 provides an inclusive meaning of consideration, while Rule

3 of the Valuation Rules provides the mechanism for determining the value where the consideration is not wholly or partly in money.

8. It is therefore necessary to distinguish between consideration received by a service provider in exchange for rendering a service and facilities or amenities provided by the service recipient merely to facilitate the performance of the service. The mere existence of a contractual obligation on the part of the service recipient to provide certain facilities does not, by itself, establish that the monetary equivalent of such facilities constitutes consideration for the services rendered.

9. In this regard, the judgment of the Hon'ble Supreme Court in **Bhayana Builders** (supra), assumes significance. The Hon'ble Supreme Court held that the expression 'gross amount charged' refers to the amount charged by the service provider for the services rendered and that the value of goods or materials supplied free of cost by the service recipient cannot be included in the taxable value merely by assigning a notional monetary value to such supplies. The Court further observed that the use of the expression 'gross amount charged' does not confer jurisdiction upon the Department to travel beyond the amount charged by the service provider.

10. The principle laid down in Bhayana Builders is that the taxable value must have a direct nexus with the consideration for the taxable service. Merely because the service recipient provides certain facilities or materials to the service provider, their value cannot automatically be added to the assessable value.

11. We also take note of the judgment of the Hon'ble Supreme Court in **Intercontinental Consultants and Technocrats** (supra), wherein it was held that amounts which do not constitute consideration for the services rendered cannot be included in the taxable value merely by resorting to the valuation rules. The statutory provisions relating to valuation cannot be interpreted to enlarge the scope of the taxable value beyond the consideration contemplated under Section 67.

12. We are conscious that Rule 3 of the Valuation Rules provides for determination of the monetary equivalent of non-monetary consideration. However, the applicability of the said rule presupposes that the amount or benefit in question constitutes consideration for the service rendered. The rule cannot independently convert every facility or expenditure incurred by the service recipient into consideration merely because it is capable of monetary valuation.

13. We find that the MoU dated 27.10.2011 contains distinct provisions dealing with the deployment costs and the facilities to be provided by the Appellant. Clause 23 specifically deals with the financial obligations towards the deployment of CISF personnel, including salaries, allowances, pension contributions, training, supervision, clothing, equipment and other agreed expenses. On these amounts, CISF had raised invoices and the applicable service tax had been discharged.

14. On the other hand, Clauses 3, 7 and 20 deal with the provision of infrastructure, accommodation, communication facilities, transport, medical facilities and other amenities necessary for the effective deployment of CISF personnel at the Appellant's establishments.

15. The distinction between these two sets of obligations assumes importance. While Clause 23 deals with the costs associated with the deployment of personnel, the other clauses primarily provide for the infrastructure and facilities necessary for CISF to discharge its security functions effectively. The provision of such facilities, in the facts of the present case, cannot be equated with additional consideration charged by CISF for the security services rendered.

16. We further find that the issue is no longer res integra and has been considered by various Benches of the Tribunal in matters involving substantially similar arrangements between public sector undertakings and CISF. In **Bharat Coking Coal** (supra), the Tribunal held that the value of free residential accommodation, medical facilities, vehicles and other incidental facilities provided to CISF personnel was not includible in the taxable value of security services. Similarly, in **CCE, Dehradun Vs Commandant, CISF**, (supra), it was held that the notional value of free accommodation provided to CISF personnel could not be included in the gross value of services in the absence of any consideration paid to CISF towards such accommodation. The same view was followed in **CISF Vs Commissioner of Service Tax, Pune** (supra), and **Sr. Commandant, CISF (BHEL Unit) Vs CCE, Bhopal** (supra).

17. We also take note of the decision of this Tribunal in M/s. Central Industrial Security Force, DIG Unit (supra), wherein, while dealing with the inclusion of the notional value of free accommodation and expenses towards medical services, vehicles and telephone charges, the Tribunal held that such facilities and reimbursable expenses could not be

included in the gross taxable value of security services. Further, in Deputy Commissioner of GST and Central Excise, Salem Commissionerate, (supra), the Tribunal, while examining similar facilities provided to CISF, held that medical facilities, transportation and accommodation provided by the service recipient were in the nature of contractual facilities and did not form part of the consideration for the security services. The aforesaid decisions directly support the proposition that facilities provided by the service recipient to facilitate the performance of security services cannot automatically be treated as additional consideration for such services.

18. The Revenue has placed considerable emphasis on the fact that the Appellant was contractually obligated under the MoU to provide the facilities and that the monetary equivalent thereof should consequently be included in the taxable value. We are unable to accept this contention in its entirety. A contractual obligation to provide infrastructure and amenities for the effective performance of services does not necessarily mean that such facilities constitute consideration for the services. The nature and purpose of the obligation have to be examined in the context of the agreement as a whole.

19. In the present case, the facilities were provided to enable CISF personnel to discharge their statutory security functions at the Appellant's establishments. The Revenue has not established that the monetary value of these facilities was separately charged by CISF or that they constituted an agreed additional payment in exchange for the security services. The mere fact that the facilities were stipulated in the MoU cannot, by itself, be determinative of their taxability.

20. We also find merit in the Appellant's contention that the monetary consideration payable under Clause 23 of the MoU had already been subjected to service tax. The Revenue has not disputed the discharge of service tax on the amounts invoiced by CISF towards deployment costs. In the absence of evidence establishing that the additional facilities constituted consideration over and above the amounts already charged, their notional monetary value cannot be added to the taxable value merely by invoking Rule 3 of the Valuation Rules.

21. Accordingly, we hold that the value of rent-free accommodation, electricity, water, office facilities, medical facilities, fuel, forms and stationery provided by the Appellant to CISF cannot be included in the taxable value of the security services in the facts and circumstances of the present case.

22. Insofar as the supply of vehicles is concerned, the Commissioner (Appeals) has already directed verification of the supporting documents and has set aside the demand to that extent for the purpose of such verification. In view of our findings on the principal issue, the value of vehicles provided as a facility for the deployment of CISF personnel would also not be includible merely on the basis of their notional value. Consequently, no demand can be sustained merely on the basis of the value assigned to the vehicles provided by the Appellant.

Limitation, interest and penalty

23. Having held that the value of the facilities in question is not includible in the taxable value, the demand itself is unsustainable on

merits. Hence the issue of the invocation of the extended period of limitation does not survive. Consequently, the demand of interest under Section 75 of the Finance Act, 1994, being consequential in nature, also does not survive. Further, when the demand itself is unsustainable and the ingredients for invoking the extended period and imposing penalty have not been established, the penalties imposed under Section 76 of the Finance Act, 1994, are also liable to be set aside.

Final Order

24. In view of the foregoing discussions and findings, the impugned order is set aside. The appellant is eligible for consequential relief, if any, as per law. The appeals are disposed of accordingly.

(Order pronounced in open court on 26.11.2026)

Sd/-
(**M. AJIT KUMAR**)
Member (Technical)

Sd/-
(**P. DINESHA**)
Member (Judicial)

Rex