

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 51988 of 2015**

[Arising out of Order-in-Original No. 09/ST/CHD-II/2015 dated 16.02.2015 passed by the Commissioner of Central Excise, Chandigarh-II]

**Fortis Healthcare Ltd**

Fortis Hospital, Sector 62,  
Phase VIII, Mohali 160062

**...Appellant**

*VERSUS*

**Commissioner of Central Excise and  
Service Tax, Chandigarh-II**

Central Revenue Building, Plot No. 19,  
Sector 17-C, Chandigarh 160017

**...Respondent**

**APPEARANCE:**

Mr. Yuvraj Singh, Advocate for the Appellant

Mr. Anurag Kumar and Mr. Goverdhan Dass Bansal, Authorized  
Representatives for the Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60002/2026**

DATE OF HEARING: 11.12.2025

DATE OF DECISION: 06.01.2026

**S. S. GARG :**

The present appeal is directed against the impugned order dated 16.02.2015 passed by the Commissioner of Central Excise, Chandigarh-II, vide which the learned Commissioner confirmed the demand of service tax amounting to Rs.50,03,768/- under Section 73 of the Finance Act, 1994 along with interest under Section 75 of the

Act and also imposed penalties under Sections 76 & 77 of the Act; however, no penalty was imposed under Section 78 of the Act.

2. Briefly stated facts of the present case are that the Appellant are engaged in provision of Health Care Services to their patients, which are either non-taxable or exempt from service tax during the different periods involved in the show cause notices; in the course of such provisions, the Appellant entered into agreements with specialist visiting doctors to provide their specialized services to the Appellant's hospital. Based on information that the Appellant were engaged in providing Business Support Services and were not paying service tax thereon, an investigation was initiated against the Appellant. As per the department, the services provided by the Appellant are not Health Care Services but are Business Support Services provided to doctors in the form of infrastructural support and administrative support to the doctors in the hospital and therefore, the Appellant are liable to pay service tax under the taxable category of 'Support Services of Business or Commerce'. On these allegations, the department had issued a show cause notice dated 28.05.2012 and subsequently issued the show cause notice dated 20.05.2014 (which is impugned in the present appeal), by invoking the extended period of limitation, alleging that the activity engaged in by the doctors for gain/livelihood would also constitute business. It was also alleged that the Appellant have deliberately and willfully suppressed the material facts from the department by not reflecting the consideration amounts received for providing 'Support Services of Business or Commerce' in their ST-3 returns for the relevant period with an intent to evade payment of service tax thereon. After following the due

process, the learned Commissioner, vide the impugned Order-in-Original, confirmed the demand along with interest and also imposed penalties. Aggrieved by the said order, the Appellant have preferred the present appeal before us.

3. Heard both the sides and perused the material on records.

4. The learned Counsel for the Appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law, and binding judicial precedents.

4.1 The learned Counsel further submits that the issue involved in the present appeal is no more *res integra* and has been settled by the Tribunal in favour of the Appellant in **Appellant's own case** vide **Final Order No. 60742/2019 dated 03.09.2019** in **Service Tax Appeal No. 53250 of 2014** (wherein the show cause notice dated 28.05.2012 was impugned). He also submits that it has been consistently held by the Tribunal in various decisions that the services provided by the hospitals are not 'Business Support Services' rather the said services fall under the category of 'Health Care Services' which are exempt from the payment of service tax. In this regard, he places reliance on the following decisions:

- **M/s Sir Ganga Ram Hospital [MANU/CE/0985/2017 – CESTAT New Delhi]**
- **SJS Healthcare Limited [Final Order No. 60166/2024 dated 0.04.2024 – CESTAT Chandigarh]**
- **Om Savitri Jindal Charitable Society [Final Order No. 60819/2021 dated 25.03.2021 – CESTAT Chandigarh]**
- **Om Savitri Jindal Charitable Society and NC Jindal Institute of Medical Care & Research [Final Order No.**

**61695-61696/2025 dated 20.11.2025 – CESTAT Chandigarh]**

4.2 As regards the invocation of extended period of limitation, the learned Counsel submits that in the facts & circumstances of the case, extended period could not have been invoked because the issue involved was pan India and various Courts have held in favour of the assessee/appellants. He further submits that the Hon'ble Supreme Court has held that mere non-disclosure/non-filing of ST-3 returns does not amount to suppression of facts and therefore, extended period cannot be invoked. For this, he relies on the following judgment:

- **CCE & ST vs. Elegant Developers [2025 SCC Online SC 2376]**

5. On the other hand, the learned Authorized Representative for the department reiterates the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record. We find that the issue involved in the present appeals is no longer *res integra* as has been settled by the Tribunal in favour of the Appellant in Appellant's own case as cited supra. Further, we find that the Tribunal in various cases as cited supra, has decided the issue in favour of the assessee/appellants wherein it has been consistently held that the services rendered by the hospitals do not fall under the category of 'Business Support Services' rather the said services fall under the category of 'Health Care Services' which are exempt from the payment of service tax. In this regard, we may refer to decision of

the Tribunal in the case of **SJS Healthcare Limited** (supra), wherein identical issue was involved and the Tribunal held as under:

**6.** We have considered the submissions made by both the parties and perused the material on record and also the judgments cited by both the sides. The only issue in the present case is whether the appellant is liable to pay service tax under the category of "Business Support Services" in terms of Section 65(104c) read with Section 65(105)(zzzq) of the Act on account of the fact that the appellant has provided infrastructure and administrative facilities to the visiting doctors. As per the Revenue, infrastructural and other support services provided by the appellant to the visiting doctors fall in the gamut of "Business Support Services"; whereas, as per the appellant, the true intention and purpose of entering into the agreement with the visiting doctors is to avail the services of such visiting doctors to render treatment and healthcare services to the patients who come to the appellant's hospital for medical treatment.

**7.** We also find that as per the terms and conditions stipulated in the agreements between the appellant and the visiting doctors, such visiting doctors are being paid in proportionate to the actual work done by them, subject to the minimum fee assurance provided by the appellant. Further, it is the appellant's hospital that allocates a specific visiting doctor to the patients and patient's medical records are maintained and retained by the appellant's hospital. Also, the bills for treatment are raised by the appellant's hospital and not by the visiting doctors and the payments thereof are also collected by the appellant's hospital. Further, the visiting doctors are not allowed to undertake their independent practice/profession by availing the appellant hospital's infrastructure.

**8.** We also find that even in the show cause notice, it is mentioned that "consultants/doctors are required to work for the hospital" which clearly indicates that the doctors are working with the appellant's hospital and it is the visiting

doctors who, in fact, are service providers to the appellant's hospital as the appellant's hospital is availing the services of such visiting doctors, for which they are paid by the said hospital as per the agreement and not the *vice versa*. Further, the appellant's hospital, being a service recipient, is deducting TDS in terms of Section 194 of the Income Tax Act, 1961 from the remuneration paid to the visiting doctors.

9. We find that this issue is no more *res integra* and has been settled in favour of the assessee by various decisions (cited supra). In the case of **Sir Ganga Hospital vs. CCE, Delhi-I** (cited supra), it was observed by the Tribunal as under:

*"6. The proceedings by the Revenue, initiated against the appellant hospitals, are mainly on the inference drawn to the effect that the retained amount by the hospitals out of total charges collected from the patients should be considered as an amount for providing the infrastructure like room and certain other secretarial facilities to the doctors to attend to their work in the appellants hospitals. We find this is only an inference and not coming out manifestly from the terms of the agreement. Here, it is very relevant to note that the appellant hospitals are engaged in providing health care services. This can be done by appointing the required professionals directly as employees. The same can also be done by having contractual arrangements like the present ones. In such arrangement, the doctors of required qualification are engaged/contractually appointed to provide health care services. It is a mutually beneficial arrangement. There is a revenue sharing model. The doctor is attending to the patient for treatment using his professional skill and knowledge. The appellants hospitals are managing the patients from the time they enter the hospital till they leave the premises. ID cards are provided, records are maintained, all the supporting assistance are also provided when the patients are in the appellant hospital premises. The appellant hospital also manages the follow-up procedures and provide for further health service in the manner as required by the patients. As can be seen that the appellants hospitals are actually availing the professional services of the doctors for providing health care service. For this, they are paying the doctors. The retained money out of the amount charged from the patients is necessarily also for such*

*health care services. The patient paid the full amount to the appellant hospitals and received health care services. For providing such services, the appellants entered into an agreement, as discussed above, with various consulting doctors. We do not find any business support services in such arrangement.*

**7.** *The inference made by the Revenue that the retained amount by the hospital is to compensate the infrastructural support provided to the doctors can be examined in another angle also. Reading the statutory provisions for BSS, we note that the services mentioned therein are "provided in relation to business or commerce." As such, to bring in a tax liability on the appellant hospital, it should be held that they are providing infrastructural support services in relation to business or commerce. That means, the doctors are in business or commerce and are provided with infrastructural support. This apparently is the view of the Revenue. We are not in agreement with such proposition. Doctors are engaged in medical profession. As examined by Hon'ble Gujarat High Court in Dr. K.K. Shah (supra), though in an income-tax case, we note that there is a discernable difference between "business" and "profession". The Gujarat High Court referred to decision of Hon'ble Supreme Court in Dr. Devender Surtis - AIR 1962 SC 63. The Supreme Court observed as below :*

*"There is a fundamental distinction between a professional activity and an activity of a commercial character" : "...a "profession"... involves the idea of an occupation requiring either purely intellectual skill, or of manual skill controlled, as in painting and sculpture, of surgery, by the intellectual skill of the operator, as distinguished from an occupation which is substantially the production or sale or arrangements for the production or sale of commodities" "...a professional activity must be an activity carried on by an individual by his personal skill and intelligence..... and unless the profession carried on by (a person) also partakes of the character of a commercial nature" the professional activity cannot be said to be an activity of a commercial character."*

**8.** *Applying the above ratio and examining the scope of the tax entry for BSS, we are of the considered view that there is no taxable activity identifiable in the present arrangement for tax liability of the appellant hospitals."*

The decision of **Sir Ganga Hospital's** case was followed in the case of **CCE & ST, Panchkula vs. Alchemist Hospital Limited** (cited supra) and it was held by the Tribunal that "respondent-assessee were not provided any Business Support Service to the consultants/doctors or patient, therefore, no service tax is payable by respondent-assessee under the category of Business Support Service" and in the result, the appeal filed by the Revenue was dismissed and the appeal filed by the assessee was allowed. Further, in the case of **Fortis Healthcare (India) Ltd vs. CCE & ST, Chandigarh-I** (cited supra), the Tribunal after relying upon the decision of **Sir Ganga Hospital's** case, has held that "the appellant had not provided any Business Support Service to the consultants/doctors or patient, therefore, no service tax is payable by appellant under the category of Business Support Service" and in the result, the impugned order was set aside and the appeal of the appellant was allowed with consequential relief. The same view has also been taken in the cases of **M/s Gujarmal Modi Hospital & Research Centre for Medical Science vs. Commissioner of S.T., Delhi – 2019 (1) TMI 378 CESTAT NEW DELHI** and **M/s Ivy Health & Life Science Pvt Ltd vs. CCE, Chandigarh-II – 2019 (4) TMI 178 CESTAT CHANDIGARH."**

7. As regards the invocation of extended period of limitation is concerned, we find that the issue involved in the present case was relating to interpretation of statutory provision, therefore, the extended period cannot be invoked as the issue was pan India and the Tribunal/Courts in various decisions have held that the services provided by the Hospitals are not 'Business Support Services' rather these services are 'Health Care Services' which are not subject to service tax.

8. In view of our discussion above and by following the ratios of above cited decisions (supra), we are of the considered view that the impugned order is not sustainable in law and is liable to be set aside and we do so by allowing the appeal of the Appellant.

(Order pronounced in the open court on 06.01.2026)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**