

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 76611 of 2017**

(Arising out of Order-in-Original No. 12/PR.COMMR/ST-I/KOL/2017-18 dated 31.05.2017 passed by the Principal Commissioner of Service Tax-I, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**M/s. Sarat Industries Limited**

57/6, B.T. Road,  
Kolkata – 700 002

**: Appellant**

**VERSUS**

**Principal Commissioner of Service Tax-I**

Kendriya Utpad Shulk Bhawan,  
180, Shantipally, Rajdanga Main Road, Kolkata – 700 107

**: Respondent**

**APPEARANCE:**

Shri Sunil Modi, Chartered Accountant, for the Appellant

Ms. Suman, Authorized Representative, for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 75048 / 2026**

DATE OF HEARING: 09.01.2026

DATE OF DECISION: 13.01.2026

**ORDER: [PER SHRI K. ANPAZHAKAN]**

The present appeal has been filed by M/s. Sarat Industries Limited, 57/6, B.T. Road, Kolkata – 700 002 [hereinafter referred to as the "appellant"] against the Order-in-Original No. 12/PR.COMMR/ST-I/KOL/2017-18 dated 31.05.2017, issued on 06.06.2017 wherein the Ld. Principal Commissioner of Service Tax-I, Kolkata has confirmed the demand of Service Tax of Rs.1,44,00,469/- (inclusive of cesses), along with interest. The Id. adjudicating authority has imposed a penalty of Rs.1,44,00,469/- under Section 78 of the Finance Act, 1994; a penalty of Rs.10,000/- has also been imposed on them under Section 77(1)(a) of the Act *ibid.*

1.1. Aggrieved by the confirmation of the demand of Service Tax, along with interest, and imposition of penalties, the appellant has filed the present appeal.

2. During the course of hearing, the appellant submitted that the entire demand has been raised against them on the basis of details of income furnished by them in their balance-sheet / Income Tax Returns for the Financial Years 2011-12 to 2014-15. It is submitted that the Show Cause Notice in this case has been issued on 03.01.2017 by invoking the extended period of limitation. The submission of the appellant is that they have not suppressed any information from the Department and the entire details required for raising the demands have been taken from the balance-sheet and Income Tax Returns filed by the appellant themselves. Thus, it is the contention of the appellant that the demand confirmed against them by invoking the extended period of limitation is not sustainable.

2.1. Regarding the merits of the demands confirmed, the appellant has pointed out that majority of the said demand pertains to the activity of "textile processing" undertaken by them. The following table shows the details of the demands confirmed on account of 'textile processing: -

<b>Financial Year</b>	<b>Nature of services provided</b>	<b>Taxable amount</b>	<b>Tax Demand</b>	<b>Demand Disputed</b>
2011-12	Textile Processing	6,40,43,359	65,96,466	65,96,466
2012-13 (01.04.2012 to 30.06.2012)	Textile Processing	4,57,36,947	56,53,087	56,53,087

2.2. The appellant submits that the activity of 'textile processing' undertaken by them amounts to 'manufacture' as defined under Section 2(f) of the Central Excise Act, 1944; this fact has been recorded by the Id. adjudicating authority in paragraph 4.3.6 of the impugned order wherein he has admitted that the activity of 'textile processing' undertaken by the appellant amount to 'manufacture' for the period after 30.06.2012 and accordingly, he has dropped the demand; however, he has considered the same activity as amounting to rendering of service and confirmed the demand of Service Tax for the period prior to 30.06.2012. The submission of the appellant is that they have been undertaking the very same activity for the period prior to 30.06.2012 as well as after 30.06.2012 and hence confirmation of the demand of Service Tax for the period prior to 30.06.2012 is legally not sustainable.

2.3. Regarding the remaining demands confirmed, under the categories of 'renting of immovable property service and machine', 'goods transport agency', 'security charges', 'labour charges', 'legal charges', etc., it has been submitted by the appellant that they were under the bona fide belief that they were not liable to pay Service Tax on these services; further, they had declared the entire income in their balance-sheet and Income Tax Returns and not suppressed any information from the Department. Accordingly, it is the appellant's contention that the demands confirmed in respect of these services by invoking the extended period of limitation are not sustainable.

2.3.1. Further, in respect of 'goods transport agency' service, the appellant specifically contends that the actual services received by them were that of 'CHA

service', wherein the Customs House Agent (CHA) has raised the invoices along with Service Tax; as they have already paid the Service Tax to the service provider, demanding Service Tax under the category of 'goods transport agency' service, under reverse charge mechanism, is not legally sustainable.

2.3.2. Similarly, in respect of 'security service' and 'labour charges', the appellant states that the respective service providers have raised invoices along with Service Tax thereon, and they have paid the Service Tax to them; accordingly, the demand of Service Tax in respect of the said services under reverse charge mechanism cannot be sustained.

2.3.3. In respect of the demand confirmed under the category of 'legal charges', the appellant submits that they are not pressing the said demand and agreed to pay the Service Tax for the same.

2.4. In view of the above submissions, the appellant pleads that the demand confirmed on these other services are liable to be set aside on the ground of limitation, excepting the demand in respect of 'legal charges' which is not being contested by them.

3. On the other hand, the Ld. Authorized Representative representing the Revenue has reiterated the findings in the impugned order.

4. Heard both sides and perused the records.

5. Regarding the demand of Service Tax of Rs.65,96,466/- and Rs.56,53,087/- which have been confirmed under the category of 'business support service' for the Financial Years 2011-12 and 2012-13 (up to 30.06.2012) respectively, we find that the Id. adjudicating authority has considered the activity of

'textile processing' undertaken by the appellant as amounting to 'manufacture' as defined under Section 2(f) of the central Excise Act, 1944 and made a categorical observation to that effect in the impugned order, which is reproduced below for the sake of ready reference: -

"4.3.6 ....

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*In view of my discussions above, I observe that the activities of the noticee to carry out the processes of Knitting, Bleaching, Dying, Raising, Calendaring and Heat-setting would amount to "manufacture" under Sec. 2(f) of the Central Excise Act, 1944 as each such process is incidental or ancillary to the completion of a manufactured/finished product with distinctive name, character and use which is irreversible. Also, all such processes are specified in relation to products falling under the respective Chapter notes of the First Schedule] to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture."*

5.1. From the above, it is clear that the appellant has undertaken the processes of knitting, bleaching, dying, raising, calendaring and heat-setting, which fall within the purview of "manufacture" as provided under Section 2(f) of the Central Excise Act, 1944. The Id. adjudicating authority has categorically given his findings that these processes amount to 'manufacture' and has dropped the demand for the period after 30.06.2012. However, the Id. adjudicating authority has confirmed the demand of service tax for the same

activity for the period prior to 30.06.2012. We have gone through the findings given by the Ld. adjudicating authority in paragraphs 4.3.7 and 4.3.8 of the impugned order. We find that the Ld. adjudicating authority has confirmed the demand of Service Tax under the category of 'business support service'. We do not agree with the findings of the Ld. adjudicating authority to confirm the demand of Service Tax under the category of 'business support service'. When the same activity amounts to 'manufacture' for the period after 30.06.2012, it cannot be said that the said activity amounts to rendering of 'business support service' for the period prior to 30.06.2012. As there is no dispute that the said activity amounts to 'manufacture' for the period after 30.06.2012, we hold that the said activity undertaken by the appellant amounts to 'manufacture' for the period prior to 30.06.2012 also. Accordingly, we hold that the demand of Service Tax confirmed in the impugned order for the period prior to 30.06.2012, under the category of 'business support service' is not sustainable.

5.2. In this context, it is pertinent to mention here that Notification No. 14/2004-S.T. dated 10.09.2004, as amended vide Notification No. 19/2005-S.T. dated 07.06.2005 specifically exempts the activity of 'textile processing' undertaken by the appellant from the levy of Service Tax. For the sake of ready reference, the relevant extracts of the said Notifications are reproduced below: -

- Notification No. 14/2004-S.T., dated 10-9-2004

*"In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable service provided to a client by a*

*commercial concern in relation to the business auxiliary service, insofar as it relates to, -*

.....

*(b) production of goods on behalf of the client;*

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*unless such factory, company, partnership firm, society, co-operative society, corporation or body corporate, as the case may be, provides any business auxiliary service in respect of any activity specified in (a) to (d) above in relation to agriculture, printing, or education."*

▪ Notification No. 19/2005-S.T. dated 07.06.2005

*"In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby directs that the following notifications of the Government of India in the Ministry of Finance (Department of Revenue) as specified in column (2) of the Table below, shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely :-*

.....		
2.	<i>14/2004-Service Tax, dated the 10th September, 2004 [G.S.R. 588 (E), dated the 10th September, 2004]</i>	<i>In the said notification, -  (i) in clause (b), for the words "production of goods on behalf of the client;", the words "production or processing of goods for, or on behalf of, the client;" shall be substituted;</i>

		<p>(ii) <i>for the words "from the whole of the service tax", the words "and provided in relation to agriculture, printing, textile processing or education, from the whole of service tax" shall be substituted;</i></p> <p>(iii) <i>the proviso shall be omitted.</i></p>
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5.3. From the above, we observe that the activity of processing of the textiles undertaken by the appellant has been categorized as an activity liable to Service Tax under the category of 'business auxiliary service' and specifically excluded vide Notification No. 14/2004-S.T. as amended vide Notification No. 19/2005-S.T. Thus, it can be observed that the demand of service tax for the said activity under the category of 'business support service' is legally not sustainable. Thus, we find that Notification No. 08/2005-S.T. dated 01.03.2005 relied upon by the Id. adjudicating authority in the impugned order has no application in respect of the activities undertaken by the appellant.

5.4. In view of the above findings, we hold that the activity of textile processing undertaken by the appellant is not liable to Service Tax. Consequently, we set aside the demand confirmed in the impugned order in respect of the said activity undertaken by the appellant for the period from 2011-12 and 2012-13 up to 30.06.2012.

5.5. As the above demand itself does not sustain, the question of demanding interest or imposing penalty in respect of the said demand does not arise and hence we set aside the same.

6. In respect of 'renting of immovable property' and 'renting of machinery', as undertaken by the appellant in this case, we find that the appellant has not declared these services rendered by them specifically either in the balance sheet or in the Income Tax Returns filed by them. Thus, we find that there is no way that the Departmental Officers would have come to know about the activity of 'renting' undertaken by the appellant. Therefore, we hold that suppression of fact with the intent to evade payment of tax stands established in respect of rendering of these services.

6.1. On this issue, the appellant has cited various case-laws to support their claim that the extended period cannot be invoked in these cases to demand Service Tax. However, we find that the decisions cited by the appellant are not applicable to the facts of this case, since the appellant has not declared the activity of providing renting of immovable property service and renting of machinery in any of the documents submitted by them before the Department. As suppression of facts with intention to evade the tax has been established in respect of these services, we hold that extended period has been rightly invoked to demand service tax for these services. Hence, we hold that the appellant is liable to pay Service Tax in respect of 'renting of immovable property' and 'renting of machinery' undertaken by them, along with interest and penalty, as demanded in the Notice and confirmed vide the impugned order.

6.2. In this connection, we find that the appellant has questioned the computation of their Service Tax liability in respect of renting of immovable property and renting of machinery services and have made various submissions to this extent. Considering these submissions, for the purpose of re-quantification of the Service Tax demand in respect of these services, the matter is remanded to the adjudicating authority. The appellant is directed to furnish all details before the adjudicating authority for quantification of the correct demand in respect of 'renting of immovable property' and 'renting of machinery'.

6.3. The appellant shall be liable to pay interest and penalty equal to the Service Tax confirmed after re-quantification, in respect of these services.

7. In respect of 'goods transport agency' service, we find that the appellant has actually received CHA services from their service providers. The documentary evidence submitted by the appellant clearly indicates that the services received by the appellant are from the CHA and there is no evidence of receipt of goods transport agency services. Further, we take note of the fact that the service provider had raised invoices along with Service Tax on the appellant and the appellant has paid the Service Tax raised on such invoices. Thus, demanding Service Tax under reverse charge mechanism (RCM) from the appellant is not sustainable. In view of the above, we set aside the demand confirmed against the appellant in the impugned order under the category of 'goods transport agency service'.

7.1. Regarding the demands of Service Tax under the categories of 'security charges' and 'labour charges' also we find that the service providers have

raised invoices along with Service Tax from the appellant, which the appellant have paid. Hence, the demands of Service Tax on these activities from the appellant on reverse charge basis are also not legally sustainable. Hence, the said demands are set aside.

7.2. As the above said demands are not sustainable, the question of demanding interest or imposing penalties on these demands does not arise.

7.3. We find that a penalty of Rs.10,000/- has been imposed on the appellant under Section 77(1)(a) of the Act. It is relevant to note that Section 77(1)(a) of the Finance Act, 1994 imposes a penalty on any person liable to pay service tax who fails to take the required registration. As the appellant is liable to pay Service Tax on the 'renting of immovable property' and 'renting of machinery' services and not taken registration for the said services, we uphold the penalty imposed on the appellant under Section 77(1)(a) of the Finance Act, 1994.

8. As regards the demand confirmed under the category of 'legal charges', we find that the appellant has not disputed the said demand. Accordingly, the demand confirmed, along with interest and penalty thereon, in the impugned order under the category of 'legal charges' is upheld.

9. In the result, we pass the following order: -

(i) We hold that the activity of 'textile processing' undertaken by the appellant amounts to 'manufacture' as defined under section 2(f) of the central Excise Act, 1944, for the period prior to 30.06.2012. Therefore, the demand of Service Tax confirmed vide the impugned order for the activity of 'textile processing' for the

period from 2011-12 and 2012-13 (up to 30.06.2012) is set aside. The interest demanded and penalty imposed in respect of this demand is also set aside.

- (ii) The demands in respect of 'renting of immovable property' and 'renting of machinery', are confirmed. However, the matter is remanded back to the adjudicating authority for the purpose of re-quantification. The appellant is liable to pay the final tax demand confirmed, along with applicable interest. They are also liable to pay penalty equal to the Service Tax demand confirmed after re-quantification. However, if the tax due along with interest and penalty is paid within 30 days from the date of issue of the order of confirmation, then the said penalty shall stand reduced to 25% of the Service Tax payable.
- (iii) The demands confirmed in the impugned order under the categories of 'goods transport agency service', 'security charges' and 'labour charges' under reverse charge mechanism are set aside. The demand of interest and imposition of penalties in respect of these services are also set aside.
- (iv) The demand confirmed in the impugned order under the category of 'legal charges' is not contested and hence, the said demand is upheld.
- (v) We uphold the penalty imposed on the appellant under Section 77(1)(a) of the Finance Act, 1994.

10. The appeal is disposed of in the above manner.

(Order pronounced in the open court on **13.01.2026**)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

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