CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 3

SERVICE TAX APPEAL NO. 52385 OF 2019

[Arising out of Order in Original No. JAI-EXCUS-000-COM-19-19-2- dated 28.06.2019 passed by the Principal Commissioner of CGST & Central Excise, Jaipur]

SOHAN LAL MATHUR **.......APPELLANT**

B-3, Durga Path, Ambabari,
Vidhyadhar Nagar
Jaipur, Rajasthan

Vs.

PRINCIPAL COMMISSIONER OF CGST & CENTRAL EXCISE-JAIPUR **.........RESPONDENT**

NCRB, Statue Circle, C-Scheme,
Jaipur

Appearance:
Shri Bipin Garg and Ms. J. Kainaat, Advocates for the Appellant
Ms. Jaya Kumari, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 50880 /2026

Date of Hearing : 08/05/2026
Date of Decision: 13/05/2026

ASHOK JINDAL

1. The appellant is in appeal against the impugned order for demand of service tax under "works contract services" for the period 2008-09 to 2011-12 by issuance of the show cause notice dated 04.10.2013.

2. The facts of the case are that the appellant was registered as the service provider under category of "Commercial or industrial

construction services" since 2004 and paying service tax under that category from 16.06.2005. An audit was conducted on 28.07.2012, 11.08.2012 and 04.10.2012 for the period April, 2008 to March 2012 for records of the appellant and it was found that the appellant was engaged in providing "construction services". On the basis of scrutiny of books of accounts, financial statements and other records maintained by the appellant., the audit team was of the view that service provided by the appellant falls under works contract service and not "Commercial and Industrial Construction service. Therefore, a show cause notice dated 04.10.2013 for invoking extended period of limitation to demand service tax for the period 2008-09 to 2011-12. The matter was adjudicated and demand of service tax was confirmed against the appellant. Aggrieved from the said order, the appellant is before us.

3. The learned counsel for the appellant submits that the appellant was registered since 2004 and maintained all the records and filing their ST-3 returns regularly under construction services. Since 16.06.2005, the Commercial and Industrial Construction Services was introduction and also was paying service tax under commercial and industrial construction services by availment abatement under Notification No. 01/2006-ST dated 01.03.2006.

4. The Revenue never objected of paying service tax by the appellant under construction and industrial construction services, although the works contract service was introduced from 01.06.2007. Periodical audit also took place and no objection was raised against

the appellant in that circumstances the whole of the demand raised against the appellant is barred by limitation. He further submitted that in their own case for the earlier periods show cause notice were issued to the appellants demanding service tax under the category of "Commercial and Industrial Construction Service" for the period 2004-05 to 2007-08 on the basis of the departmental audit but this Tribunal set aside the said demands, in that circumstances the appellant was under bonafide belief that appropriate classification of services is under "Commercial and Industrial Construction Service" and entitled to the benefit of Notification No. 1/2006, therefore, impugned demands are to be set aside.

5. On the other hand, learned authorized representative relied on the audit report saying that the appropriate classification of the appellant is "works contract service".

6. Heard the parties and considered the submissions.

7. It is a case where the appellant is registered with the Revenue under "Commercial Industrial Construction services" and discharging their service tax under the said category availing the benefit of Notification No. 1/2006-ST dated 01.03.2006 and filing their ST-3 returns regularly. It is also apparent from the records that for the earlier period also the demand of service tax was raised under "Commercial Industrial Construction services" and the same was adjudicated by this Tribunal holding that the said services are exempt from payment of service tax.

8. Further, we note of the fact that the fact that the periodical audit took place and objection was raised earlier service. In that circumstances, we hold that the whole of the demand raised against the payment for the 2008-09 to 2011-12 by issuance of the dated 04.10.2013 is highly time barred. Therefore, the appellant succeeds on limitation.

9. In view of this, we set aside the impugned order and allow the appeal with consequential relief if any.

[Order pronounced on **13/05/2026**]

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K.ANPAZHAKAN)
MEMBER (TECHNICAL)

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