

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

SERVICE TAX APPEAL NO. 51013 OF 2020

[Arising out of Order-in-Appeal No.DDN/EXCUS/000/APP/36/2020-21 dated 5.6.2020 passed by the Commissioner, CGST (Appeals), Dehradun]

M/s. NU Wood Industries,
11-Anand Chowk, Tilak Road,
Dehradun, Uttarakhand-248 001.

....APPELLANT

Versus

Commissioner of CGST,
E-Block, Nehru Colony, Haridwar,
Road, Dehradun,
Uttarakhand-248 001.

.....RESPONDENT

Appearance:

Present for the Appellant : None for the appellant

Present for the Respondent: S.K. Meena, Authorised Representative

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R.PRIYA, MEMBER (TECHNICAL)

Final Order No. 51803/2025

Date of Hearing : 14.11.2025

Date of Decision: 27.11.2025

BINU TAMTA:

1. The challenge in the present appeal is to the Order-in-Appeal¹ dated 5.6.2020 passed by the Commissioner (Appeals), Dehradun upholding the demand of service tax along with applicable interest and penalty under the provisions of the Finance Act ,1994 and also late fee under Section 70(1) of the Act.

2. The Appellant having service tax registration are engaged in rendering taxable services of Construction services other than

¹ No.DDN/EXCUS/000/APP/36/2020-21

residential complex including commercial/industrial buildings or civil structures, construction of residential complex service. The Appellant is also availing GTA services and as such liable for registration and payment of service tax as service recipient. On the basis of intelligence, it was gathered from Garhwal Mandal Vikas Nigam Limited² letter dated 12.06.2018 that they paid a sum of Rs.13,74,85,602/- to the Appellant for providing "works contract" services to them during the Financial years 2013-14 to 2016-17. However on being checked from ACES & NSDL site, it was observed that the Appellant has obtained service tax Registration only on 29.05.2015 and paid service tax of Rs.3,24,793/- along with interest of Rs.4,970/-. A Visit under Rule 5A(1) of the Service Tax Rules, 1994 was made by the officers of Anti Evasion branch in the registered premises of the Appellant for the purpose of scrutiny, verification and checks of their records. It came to notice that the Appellant had provided Works Contract Services to GMVNL, Kumaon Mandal Vikas Nigam Ltd.³, KMVNL, Indian Institute of Remote Sensing⁴, Uttranchal Pey Jal Nigam⁵, Uttar Pradesh Rajkiya Nirman Nigam Ltd.⁶ etc. but did not pay service tax on the amount received from the said clients for the said services provided by them. During the course of further investigation, KMVNL & GMVNL were requested by the Department to furnish the details of payment made by them to the Appellant along with service tax paid/deducted, if any, under reverse charge mechanism in relation to Works Contract Services received by them from the Appellant. KMVNL informed vide letter dated 12.07.2018

² GMVNL

³ KMVNL

⁴ IIRS

⁵ UPJN

⁶ UPRNNL

that being a service recipient, the service tax liability under RCM has been discharged by them for the period 2013-14 to 2016-17. GMVNL vide letter dated 25.08.2018 submitted details of payment made by them to the Appellant and the service tax deducted for the period 2012-13 to 2016-17 along with copy of agreement/bond executed by them with the Appellant regarding deduction by GMVNL of their portion of service tax from the payments made by them to the Appellant for the works contract service. Further, the Balance sheet and freight ledgers showed that they had borne heavy expenses on account of freight charges on which no service tax was paid by them. The Appellant being a partnership firm were liable to pay service tax on the value of transportation provided by the GTA to them. Therefore, the SCN dated 05.09.2018 was issued to the Appellant for demand of Service tax of Rs.65,62,641/- along with applicable interest and alleging penalty under section 77(1)(a) & 78 of the Finance Act, 1994 & late fee under Section 70(1) of the Act for non filing of ST-3 returns for the period 2012-13 to 2014-15 and Oct, 2015 to June, 2017 & late filing of ST-3 return for the period April, 2015 to Sept, 2015.

3. On adjudication the order-in-original dated 18.07.2019 was passed confirming the demand. Being aggrieved, the appeal filed by the appellant was dismissed by the impugned order. Hence, the present appeal has been preferred before this Tribunal.

4. Heard Shri S.K. Meena, Authorised Representative for the Department and perused the records.

5. Learned Counsel for the appellant submitted that the appellant has worked as a sub-contractor for GMVN/KMVN/UKpayjal Nigam in execution of various works awarded to them by Uttarakhand Tourism Development Board⁷, which is part & parcel of Uttarakhand Tourism Department of the Government of Uttarakhand.

6. The UTDB sends proposals to Central Government for creation of need-based infrastructure in the State for promotion of tourism. Once the proposals are approved funds/ grants are released by Central Government to UTDB for creation of the said infrastructure. Thereafter, UTDB awards works to a Government Agency like GMVN/KMVN/UPRNN, etc. in terms of the GO issued for the same. The said parties hire sub-contractors for execution of the said work through tender participation.

7. On the basis of the submissions made that the works undertaken by the appellant were squarely for the Government and were, therefore, eligible for exemption from service tax in terms of Clause 12 of Notification No.25/2012-ST dated 20.06.2012. Also the work which remained pending in respect of the contracts/agreements entered before 01.03.2015 and executed after 01.03.2015 stands exempted in terms of Clause 12(a) of the said exemption. Learned counsel also submitted that the appellant has worked as a sub-contractor for GMVN/KMVN/UPRNN and, therefore, the ultimate liability to discharge the burden of service tax is on the principals.

8. Learned Authorised Representative representing the Revenue has refuted the arguments of the appellant of being a sub-contractor and hence not liable to pay the service tax relying on the decision of this

⁷ UTDB

Tribunal in the case of **CST, New Delhi Vs. Melange Developers Private Ltd.**⁸ On the issue of claiming exemption under the Notification No.25/2012, he emphasized on the provisions thereof to say that the exemption is available only after the said works are rendered and intended for purposes other than the commercial purposes. In the present case, the activity of construction of single bedroom/double bed room/eco log huts are intended for renting of tourists, which is a commercial activity and, therefore, the appellant falls outside the ambit of exemption notification.

9. The issue considered by the Commissioner (Appeals) is whether the appellant is required to discharge service tax on the works contract services rendered as sub-contractor to GMVN/KMVN/UKpayjal Nigam for executing the works for Utrakhand Tourism Development Board. To consider the issue on merits, it is necessary to reproduce the relevant provisions of the Mega Exemption Notification. Clause 12 read as under:-

“12. 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;

The provisions of sub-clause(a) were omitted vide Notification No.6/2015-ST dated 01.03.2015 w.e.f. 1.4.2015. Subsequently, Notification No.9/2016-ST dated 01.03.2016 introduced clause 12A, which reads as under:-

⁸ 2020 (33) GSTL 116 (Tri-LB)

"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;

(b).....

(c).....

under a contract which had been entered into prior to 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date.

10. The exemption which was withdrawn w.e.f. 1.4.2015 was subsequently granted by inserting Clause 12A, which provided for continuation of the said exemption upto 31.03.2020 with regard to various agreements entered into prior to 1.3.2015. However, on perusal of the relevant clauses of the exemption notification referred above, it is evident that the 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 alternation of a civil structure or any other original works meant pre-dominantly for use other than for commerce, industry, or any other business or profession. The Authorities below have rightly observed that the nature of construction work carried out by the appellant for GMVN/KMVN/UKpayjal Nigam related to the construction of single bedroom/double bed room/eco log huts, which were used for renting to tourists. The renting of huts being of commercial nature, the appellant falls outside the scope of exemption notification. It is settled principle of law that the exemption notification has to be construed strictly and it is for the assessee to prove that it squarely falls within the ambit of exemption notification. Since the nature of activity carried out

by the appellant was of commercial nature, we do not find any error in the impugned order.

11. The next submission of the learned counsel for the appellant is that the appellant worked as a sub-contractor for GMVN/KMVN/UPRNN and, therefore, the ultimate liability of the service tax was on the principal contractor. We find that the issue has been decided by the Larger Bench of the Tribunal in **Melange Developers** holding that the sub-contractor is liable to pay service tax even if the main contractor has discharged service tax liability on the activity undertaken by the sub-contractor in pursuance of the contract. In view thereof, the appellant is liable to pay service tax though being a sub-contractor.

12. We, therefore, do not find any reasons to interfere with the impugned order and the same is hereby affirmed. The appeal is, accordingly dismissed.

[order pronounced on 27th November, 2025]

(BINU TAMTA)
Member (Judicial)

(HEMAMBIKA R. PRIYA)
Member (Technical)

Ckp.