

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

REGIONAL BENCH – COURT No. III

**Service Tax Appeal No. 40357 of 2022**

(Arising out of Order-in-Original No. 48/2022 CH.N.GST dated 28.03.2022 passed by Principal Commissioner of CGST and Central Excise, No. 26/1, Mahatma Gandhi Road, Chennai – 600 034)

**M/s. Intellect Design Arena Limited**

No. 244, (Old No. 713)  
Polaris House,  
3<sup>rd</sup> Floor, Anna Salai,  
Chennai – 600 006.

**...Appellant**

***Versus***

**Commissioner of GST and Central Excise**

Chennai North Commissionerate,  
No. 26/1, Mahatma Gandhi Road,  
Nungambakkam,  
Chennai – 600 034.

**...Respondent**

**APPEARANCE:**

For the Appellant : Mr. Raghavan Ramabadran, Advocate

For the Respondent : Mr. Sanjay Kakkar, Authorised Representative

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No. 41468 / 2025**

DATE OF HEARING : 23.06.2025

DATE OF DECISION : 15.12.2025

**Per Mr. VASA SESHAGIRI RAO**

This appeal has been filed by M/s. Intellect Design Arena Ltd, Chennai (hereinafter known as "Appellant") assailing the Order-in-Original (hereinafter "Impugned Order") whereby a demand of Rs.36,77,40,000/- was confirmed under Reverse Charge Mechanism on services

received from outside the taxable territory during the period April 2014 to June 2017 under the proviso to Section 73(1) of the Finance Act, 1994; and further (ii) Confirmed a demand of Rs.1,16,11,766/- towards alleged short-payment of Service Tax for the month of December 2016, together with interest under Section 75 of the Finance Act, 1994; and (iii) Imposed equal penalty under Section 78 and Rs.10,000/- under Section 77 of the Finance Act, 1994

2.1 Facts briefly stated are that during the Departmental Audit, it was noticed that the Appellant had not paid Service Tax under Reverse Charge Mechanism (RCM) on certain payments made to its subsidiary/associate companies located outside the taxable territory during the period from April 2014 to June 2017.

2.2 The Appellant develops software which is licensed to overseas subsidiaries ("Licensees") under inter-company agreements. The Licensees execute EULA and implementation contracts with end-customers abroad. Where part of the implementation work is performed by the Licensees, the Appellant reimburses the Licensees' costs; which the Department treats these reimbursements as consideration for import of manpower/software support services, liable to Service Tax under RCM.

2.3 Further, for December 2016, the Appellant declared Rs.24.26 crore in its ST-3 return instead of Rs.25.61 crore, though the full tax was admittedly paid, and the difference arose from a clerical reporting error.

2.4 Based on audit findings, the Show Cause Notice No. 19/2020-Audit-1 dated 17.03.2020 was issued and after due process of Law the SCN was confirmed *vide* Order-in-Original No. 48/2022-CH.N.GST dated 28.03.2022 as detailed in Para 1 above.

2.5 Being aggrieved, the Appellant has filed an Appeal before this Tribunal.

3. We have heard the Ld. Advocate Mr. Raghavan Ramabhadran, appearing for the appellant, and the Ld. Authorized Representative Mr. Sanjay Kakkar, for the Revenue, who advanced their respective submissions / arguments which are summarized hereinbelow.

4. The Ld. Advocate Mr. Raghavan Ramabhadran, appearing for the appellant submitted as follows: -

4.1 That foreign exchange remittances made by the Appellant are in the nature of reduction in consideration for the services rendered by the Appellant to the Licensees.

Thus, Service tax is not leviable and placed reliance on the decision in the case of *M/s. MAN Trucks India Pvt. Ltd v. Commissioner, Central Excise, Customs & Service Tax, Indore [2020-VIL-180-CESTAT(Del)STJ]*.

4.2 That there is no flow of service from the Licensees to the Appellant. Thus, Service tax levy is not attracted.

4.3 The burden of proving taxability is upon the Department and no material has been adduced by the Department to establish the same. In this regard they relied upon the following decisions: -

- i. M/s. Siemens Limited v. Commissioner of GST and Central Excise, Puducherry, 2019 (2) TMI 85-CESTAT Chennai,*
- ii. Nirlon Ltd v. Commissioner of Central Excise, Mumbai, 2015 (5) TMI 101 - Supreme Court.*

4.4 The Appellant has discharged the Service tax on the invoice issued to SEEC Asia. Thus, the demand to the tune of Rs.1,16,11,766/- is illegal.

4.5 The demands are barred by limitation and extended period of limitation under proviso to Section 73(1) cannot be invoked.

4.6 Imposition of interest and penalty is not sustainable.

5. *Per contra*, the Learned AR Mr. Sanjay Kakkar submitted as follows: -

5.1 There is no merit in the Appellant's claim of "no flow of service" and that Section 65B(44) is fully satisfied whereby "Service" *means any activity carried out by one person for another for consideration.*

And in this case, Activity is manpower deployment, software development, and implementation support by Licensees by one person for another is foreign subsidiaries performing part of implementation activity for the Appellant and consideration is payments through debit notes/invoices (Annexures 7 & 8).

Thus, the definition stands fully satisfied.

5.2 The Appellant's claim that it was "not privy" to the C&I (Customization and Implementation) Agreements is factually impossible because, Clause 1.3(d) and 2.2 of the Inter-Company Agreement imposes mandatory obligations on the Appellant to provide implementation support, Clause 27 of the C&I Agreement shows that notices relating to project implementation were sent to the Appellant without sharing of scope, schedules, deliverables, the Appellant could not have executed on-site work. Thus, the contractual chain is an integrated tripartite framework.

5.3 Debit notes/invoices show services received, not reimbursements. Annexures 7 and 8 clearly mention: a) "Employee Benefit Expenses" (salary of Licensees' staff deployed for Appellant's projects) c) "Software Development Expenses" (services rendered by foreign associated companies). These are services consumed by the Appellant, not expenses incurred on Appellant's behalf.

5.4 The Agreements establish that: Licensees subcontract implementation work to Appellant and the Licensees incur costs for part of work done by their staff. Such costs are debitable to the Appellant. Thus, payments are consideration, not cost reductions. And that Man Trucks India case relied upon by the Appellant is inapplicable as Man Trucks involved discount on goods, not cross-border services. Here, invoices show import of manpower/software services, and so are fully taxable under RCM.

5.5 The recipient is the Appellant located in India; hence, the place of provision is India. The decision in Tech Mahindra is inapplicable as it dealt with export of service to foreign clients and there is no import of service into India occurred. Here: a) Manpower/software support from foreign subsidiaries b) Used by Appellant in India for its obligations

c) Taxable under RCM. In the cases of SGS India & Indian National Shipowners Support the stand of Revenue and both decisions affirm that Services consumed in India, even if performed partly abroad and so are taxable under RCM.

5.6 Payments are not reimbursements as Debit notes show Payments are directly linked to manpower/software support services and hence they constitute "consideration" under Section 67 of the Finance Act, 1994. The decision in the case of Intercontinental Consultants is not inapplicable as that case involved pure reimbursements of third-party costs. Here, payments are for services provided by Licensees' employees, not third-party pass-through costs.

5.7 The principle of 'Revenue Neutrality' is not applicable and the grounds that a) RCM liability under Section 68(2) is absolute. CENVAT availability does not extinguish liability as held by CESTAT Hyderabad in Autoform Engineering (2025) which holds revenue neutrality does not defeat the tax demand. There is no evidence that Appellant actually availed or intended to avail CENVAT credit.

5.8 He submits that extended period rightly has been invoked as Suppression established and Case laws support invocation and *bona fide* belief plea unfounded RCM liability is explicit; no interpretational complexity is demonstrated and penalties are correctly imposed.

5.9 Finally it was prayed to Uphold the Order-in-Original in its entirety and Reject the Appeal as devoid of merit.

6. We have carefully perused the appeal records, judicial precedents cited, examined the Inter-Company Agreement and the C&I Agreements, scrutinized the debit notes/invoices relied upon by the Department, and perused the statutory provisions under the Finance Act, 1994 together with the Place of Provision of Services Rules, 2012 and the relevant provisions of Law.

7. In the light of the rival submissions, the following issues arise for determination in this appeal: -

- i. Whether the foreign subsidiaries/Licensees have rendered any "service" to the Appellant within the meaning of Section 65B(44);

- ii. Whether payments made to the Licensees constitute “consideration” for any imported service or merely represent downward price-adjustments;
- iii. Whether the alleged activities are taxable in India in terms of Sections 64, 66B and the POPS Rules;
- iv. Whether revenue neutrality negates the demand; and
- v. Whether invocation of extended period and penalties are justified.
- vi. Whether the demand of Rs.1,16,11,766/- for December 2016 is sustainable in view of the admitted clerical error and affirming full tax payment?

We answer these issues as under: -

Issue (i): Whether any “service” was rendered by the Licensees/Associates to the Appellant

7.1 The Respondent contends that the debit notes reflect “Employee Benefit Expenses” and “Software Development Expenses” incurred by foreign subsidiaries and therefore constitute manpower/software development services provided to the Appellant. The Respondent accordingly argues that requirements of Section 65B (44) stand fulfilled i.e., there is a service provider, consideration and service recipient.

7.2 However, on detailed examination, we find that: -

- a) The Inter-Company Agreement clearly shows that the Appellant is the sole service provider to the foreign Licensees.
- b) Clause 2.2 provides that 90% of the implementation fee is payable to the Appellant; if part of the work is undertaken by the Licensee, the corresponding cost is merely netted off.
- c) Nowhere is the Licensee obligated to render any service to the Appellant.
- d) The Customization & Implementation (C & I) Agreements are between Licensees and foreign customers; the Appellant is not a contracting party.

7.3 In the case of *M/s. Tech Mahindra Ltd., Milind Kulkarni Versus Commissioner of Central Excise, Pune - I 2016 (9) TMI 191 - CESTAT MUMBAI.*, the Tribunal held in Para 27 and 28 that: -

*"27. We do not need to examine whether the flow of funds from the head office to the branch is consideration or reimbursement as the test of services having been received in India fails. Nevertheless, we do so. A branch, by its very nature, cannot survive without resources assigned by the head office. The business of the appellant assessee is such that credibility in the eyes of its overseas clients lies in the name and style of the appellant assessee. It cannot be substituted by any other entity. The activity of the head office and branch are thus inextricably enmeshed. Its employees are the employees of the organization itself. There is no independent existence of the overseas branch as a business. The economic survival of the branch is entirely dependent on finances provided by the head office. Its mortality is entirely contingent upon the will and pleasure of the head office. The transfer of funds by gross outflow or by netted inflow is, therefore, nothing but reimbursements and taxing of such reimbursement would*

*amount to taxing of transfer of funds which is not contemplated by Finance Act, 1994 whether before 2012 or after.*

*28. In view of our findings above, the demand of tax in the impugned order is without authority of law and does not survive. The penalties imposed on the assessee appellant and the principal officers are also set aside. All appeals are, consequently, allowed."*

7.4 Further Section 65B (44) requires:(a) an Activity; (b) by one person for another;(c) for consideration.

In the present case, none of the Agreements create an activity performed "for" the Appellant. The Department has not produced a single document evidencing any service obligation owed by the Licensee to the Appellant.

Thus, the first and foundational requirement of a taxable service is absent.

We therefore hold Issue (i) in favour of the Appellant.

Issue (ii): Whether payments constitute "consideration" for a service or mere price-adjustments

8.1 The Department places reliance on debit notes. However, when these documents are interpreted in the context of the Agreement, we find that the debit notes merely quantify the Licensee's cost for the portion of work the Appellant did not perform., such return of cost reduces the Appellant's entitlement under Clause 2.2; it does not represent consideration for any service rendered by the Licensee and there is no *quid-pro-quo*, which is the heart of "consideration".

8.2 We find that this exact legal position was affirmed in *M/s. Man Trucks India Pvt. Ltd. Versus Commissioner, Central Excise, Customs & Service Tax, Indore., 2020 (4) TMI 76 - CESTAT NEW DELHI* where the Tribunal in Para 10 held that downward price adjustments through discounts in lieu of aftersales warranty cannot be treated as consideration for a taxable service.

8.3 We also note that in *KPIT Technologies Ltd Versus Commissioner of Central Excise, Pune-I. 2017 (7) TMI 294 - CESTAT MUMBAI.*, the Tribunal again held that internal cost-sharing within a multinational software implementation group does not create a "consideration-based" service.

8.4 We also find that in Tech Mahindra case, internal cost-sharing arrangements within a multinational group may not create a "consideration-based" service for Tax purposes. This is because the payment between related entities is considered a reimbursement of costs, not payment for a supply of services for which a profit is sought. The core principle is that the participants pool resources to achieve desired objective for mutual benefit.

8.5 Therefore, when services are performed outside India, even if the payment is made by an Indian entity or the contract involves group companies, the services are not taxable in India. Customization and implementation services have been carried out not in a taxable territory. Even if a part of the service undertaken is performed through a service provider located abroad it is not subjected to tax.

8.6 There is no question of importing a service if the entire activity is carried out outside India. Therefore, we conclude that the impugned remittances are not any consideration but mere settlement of inter-company commercial arrangements. Revenue sharing arrangements do not involve provision of service by one person to another. Thus, the issue (ii) is answered in favour of the Appellant.

Issue (iii): Whether the alleged activities are taxable in India (Sections 66B, POPS Rules)

9.1 Even assuming, for the sake of argument, that some service exists, the undisputed facts show that all the implementation activity by Licensees is performed at foreign customer sites. The Implementation is a performance-based service and so covered under Rule 4 of the POPS Rules and the place of provision is the place where the service is actually performed.

Accordingly, we conclude that the alleged activity is performed outside India and not covered under Section 66B of Finance Act, 1994, which taxes only services provided in the taxable territory.

9.2 We also find that the Revenue's reliance on Rule 3 is misplaced as Rule 4 overrides Rule 3 for performance-based services. For "performance-based services" under the Place of Provision of Services (POPS) Rules, 2012, Rule 4 is the specific rule to be followed, and it overrides the general Rule 3. This is a fundamental principle of statutory interpretation, where a specific rule governing a particular situation takes precedence over a general rule.

9.3 The POPS Rules establish a clear hierarchy. Rule 14, in particular, clarifies that if a service falls under both a specific rule (like Rule 4) and a general rule (Rule 3), the more specific rule will apply. We also note that by relying on Rule 3, the Revenue is applying a general rule to a situation that is specifically covered by a different rule. If the service in question is indeed a "performance-based service" as defined by Rule 4, the service provider can argue that the Revenue's position is incorrect. The argument would be that since Rule 4 specifically addresses their situation, it must be

used to determine the place of provision, regardless of what Rule 3 would suggest.

9.4 This view is also fortified by the decision of Mumbai CESTAT in the case of *M/s. Tech Mahindra Ltd., Milind Kulkarni Versus Commissioner of Central Excise, Pune - I 2016 (9) TMI 191 - CESTAT MUMBAI* that services performed abroad for foreign projects cannot be taxed in India merely because the Indian entity is involved in execution applies squarely to this case.

Thus, the issue (iii) is answered in favour of the Appellant.

Issue (iv): Whether revenue-neutrality negates the demand

10.1 It is not disputed that, if tax is payable, the Appellant would be immediately entitled to full CENVAT credit.

10.2 In this regard, the consistent line of decisions which were relied upon by the Appellant are: -

- a) *M/s. Scope E Knowledge Centre Private Limited v. Commissioner of Service Tax, Chennai, 2023 (3) TMI 695- CESTAT Chennai*
- b) *M/s. Godrej Consumer Products Limited v. Commissioner of Central Excise Chennai-III Commissionerate, Chennai, 2023 (6) TMI 1245 CESTAT Chennai*

- c) *M/s. Siemens Limited v. Commissioner of GST and Central Excise, Puducherry, 2019 (2) TMI 85- CESTAT Chennai*
- d) *Commissioner of Central Excise, Pune v. Coca-Cola India Private Limited, 2007 (213) E.L.T. 490 (S.C.) In Para 6 held that ..... therefore, consequences of payment of excise duty after availing MODVAT credit was revenue neutral.*
- e) *Nirlon Ltd v. Commissioner of Central Excise, Mumbai, 2015 (5) TMI 101 - Supreme Court It was held that it is stated at the cost of repetition that when the entire exercise was revenue neutral, the appellant could not have achieved any purpose to evade the duty.*

We find that all the above cases hold that where credit is fully available, no motive to evade can be inferred, and demands cannot sustain. We therefore find that the entire exercise is revenue-neutral, further reinforcing that the extended period could not have been invoked.

10.3 We also find that *M/s. Tech Mahindra Ltd., Milind Kulkarni Versus Commissioner of Central Excise, Pune - I 2016 (9) TMI 191 - CESTAT MUMBAI*. also have applied revenue neutrality to hold that no intention to evade could be inferred in RCM situations.

Thus, the issue (iv) also stands answered in favour of the Appellant.

On merits the issue of Taxability under RCM is answered in favour of Appellant.

Issue (v): Whether extended period and penalties are invocable

11.1 The Appellant submits that the dispute is essentially interpretational arising out of the correct characterisation of cross-border arrangements, contractual allocation of implementation responsibilities and whether the amounts remitted are price adjustments or consideration for services. The Appellant says (i) the agreements show the Appellant as the service provider, not the recipient; (ii) the debit-notes merely adjust the implementation fee (downward price adjustment) and are not consideration for any service received; (iii) most material was disclosed in audited accounts and ST-3 returns; and (iv) even if tax was payable, full credit would be available (revenue neutral), so there was no motive to evade tax.

11.2 The Respondent/Department contends that (i) debit notes / invoices show "Employee Benefit Expenses" and "Software Development Expenses" — which are imported services consumed in India; (ii) facts were uncovered only after audit and verification of private records; (iii) the shortfall in ST-3 for December 2016 demonstrates an omission; and (iv) the omissions amount to suppression/willful mis-statement so as to attract the proviso

to Section 73(1) and penalties under Sections 77/78 Finance Act 1994.

11.3 After hearing both the sides we find that: -

- a) The issues involved are interpretational as the entire dispute depends upon interpretation of agreements, application of POPS Rules, and characterization of cost-sharing. The contracts on record, read as a whole, reveal a commercial pricing/settlement mechanism; they do not, on their face, create a discrete contractual obligation by the licensees to provide ancillary services to the Appellant in India. Where the controversy turns on the correct legal characterization of transactions and the proper construction of commercial agreements, the matter is by its nature involves a dispute which is interpretational in nature.
- b) The Appellant is a listed company and have filed ST-3 returns and audited financial statements. The accounts and tax returns containing the relevant figures were available in the public domain; therefore, it is not a case where the relevant facts were exclusively private and later unearthed. The department's contention that only after Audit of accounts, the irregularity surfaced is not supported by material evidence showing that the Appellant actively concealed facts from officers. Where

books, returns and audited accounts were open and the department could, by due diligence, have made any earlier enquiry, the element of suppression requisite for the proviso is not made out.

- c) The record does not disclose any positive acts of concealment — no falsified documents, no forged or fabricated records, no clandestine bookkeeping. The Appellant's internal ledger entries which reflect debit notes and the commercial arrangements do not indicate *malafide* intent. The Department's case relies on the difference in legal construction; it does not point to a concealment or manipulative conduct by the Appellant intended to mislead the Department.
- d) Further the demand, if sustained, would be revenue neutral because the tax (if payable) is immediately eligible as CENVAT credit against the appellant's output liabilities. Where the overall exercise is revenue neutral (i.e., the assessee suffers no net fiscal benefit by the alleged non-payment), such circumstances weaken any inference of mala fides and further militate against invoking the extended period.
- e) We also find that the department has not discharged the onus of proving suppression, concealment or fraudulent intent. On the aggregate of (i) the interpretational nature of the dispute, (ii) public availability of returns and

accounts, (iii) absence of any deliberate concealment, and (iv) revenue neutrality, the proviso to Section 73(1) cannot be invoked. The extended period is therefore not attracted.

11.4 In this regard, the Appellant has relied upon various decisions in their favour and to name a few prominent ones

- a) *Pushpam Pharmaceuticals Company v. Collector of Central Excise, Bombay, 1995 (78) E.L.T. 401 (SC).*
- b) *Anand Nishikawa Co. Ltd v. CCE, Meerut, 2005 (188) ELT 149 Supreme Court.*
- c) *Padmini Products Ltd. v. CCE, 1989 (43) ELT 195-Supreme Court.*
- d) *Continental Foundation Jt. Venture v. CCE, Chandigarh-I, 2007 (216) ELT 177-Supreme Court*
- e) *Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur - 2013 (288) E.L.T. 161 (S.C.).*

We have perused all the above decisions,

- i. In the case of *Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur (2013)*, the Supreme Court of India held that mere non-payment of duties does not automatically amount to collusion, wilful misstatement, or suppression of facts. The Apex Court ruled that inadvertent non-payment falls under the normal six-month limitation period, while deliberate evasion requires proving "wilful" intent, which necessitates a

positive action by the assessee and places the burden of proof on the revenue department.

- ii. In *Continental Foundation Joint Venture v. CCE, Chandigarh-I, 2007 (216) ELT 177 (S.C.)*, the Supreme Court held that the longer limitation period (5 years) cannot be invoked if there was a genuine doubt for the assessee due to conflicting judicial views or conflicting circulars from the department. The court found that such confusion could lead to a bona fide belief on the part of the assessee and ruled that no wilful suppression or fraud could be attributed to them.

11.5 In the light of the foregoing analysis, and applying the settled judicial principles governing invocation of the extended period, we find that the Department has not discharged the burden of establishing suppression, wilful misstatement, or intent to evade. The case turns squarely on interpretation of contractual clauses, the proper characterisation of cost-sharing arrangements, and the application of the Place of Provision of Services Rules, 2012 — an area where divergent legal views are not uncommon.

The Supreme Court, in *Continental Foundation Jt. Venture v. CCE (2007 (216) ELT 177 (SC))*, held that mere omission or failure to declare does not constitute suppression unless it is shown to be deliberate with an intent to evade. Similarly, in

*Uniworth Textiles Ltd. v. CCE (2013 (288) ELT 161 (SC))*, the Court clarified that “suppression of facts” means a deliberate act of withholding information, and mere non-disclosure or wrong interpretation of law cannot justify extended limitation.

11.6 Those principles apply squarely to the present dispute. The Appellant is a listed public company, its financials are publicly available, and all relevant figures stand recorded in audited accounts. The Department has culled out the figures from the Audited accounts/balance sheet. There is no evidence of clandestine activity, falsification of records, or intentional suppression. The Department relies only on audit-based reinterpretation of transactions, a situation which the Supreme Court has repeatedly held cannot constitute suppression.

11.7 Further, the demand itself is revenue-neutral, since any tax if payable would be fully available as CENVAT credit to the Appellant. The Larger Bench decision in *Jay Yuhshin Ltd. [2000 (119) ELT 718 (Tri-LB)]* have held that where credit is fully available and the situation is revenue-neutral, there is no motive to evade tax, and extended limitation cannot be invoked.

11.8 Accordingly, the invocation of the proviso to Section 73(1) fails on both factual and legal grounds. As we hold that the extended period is not attracted, and the consequential penalties under Sections 77 and 78 also fail as a natural corollary.

Thus, the issue (v) is therefore also answered in favour of the Appellant.

Therefore, the demand of Rs ₹36,77,40,000/- fails on merits as well as limitation.

Whether the demand of Rs.1,16,11,766/- for December 2016 is sustainable in view of the admitted clerical error and full tax payment?

12.1 The Appellant submits that i) the alleged short-payment of Rs.1,16,11,766/- is wholly unsustainable because the full tax liability for December 2016 was duly paid as stands reflected in the Appellant's books of accounts, ii) Due to a clerical/typographical error in the ST-3 return, the output liability was erroneously reported as Rs.24.26 crore, resulting in a mathematical mismatch of Rs.1.16 crore and the error is a mere reporting discrepancy, not a short-payment iii) comparative workings (Annexure 11) have been submitted to reconcile the tax actually paid and the tax disclosed in returns and there is no "short-payment", "loss of

revenue”, or “intent to evade”, and, iv) the demand is without factual basis and merits to be set aside.

12.2 But, the Respondent contends that the ST-3 return is the statutory document for determining liability, and the figure declared therein is binding and any mismatch between books and returns indicates non-compliance, and the burden lies on the Appellant to demonstrate with primary evidence that tax has been fully paid. Further no revised return was filed, though the law permitted its filing. According to the Department, a difference of ₹1.16 crore between the ST-3 return and the Appellant’s ledger indicates a short-payment unless independently reconciled. The Respondent has concluded that the Appellant failed to report the correct figure and therefore the demand is sustainable.

12.3 We have carefully examined the submissions of both sides, the reconciliation statement furnished by the Appellant, and the materials placed on record. The controversy is narrow and turns exclusively on a factual determination as to whether Service Tax of Rs.1,16,11,766/- was indeed short-paid for the month of December 2016 or whether the discrepancy arose solely due to a clerical mis-reporting in the ST-3 return.

12.4 The Appellant has submitted a reconciliation statement as Annexure-11 (Pg.No. 98 of the Appeal Paper Book) to demonstrate that the actual Service Tax liability stood fully discharged. The variance appearing in the ST-3 return showing tax liability of Rs.25.61 crores instead of Rs.24.26 crores has been explained as a clerical reporting error. It is a matter of record that no revised ST-3 return was filed by the Appellant; however, the absence of such revision cannot, by itself, establish short-payment when the underlying tax remittance is undisputed. In fact, during the hearing, the Appellant contended that there was excess tax payment, whereas the Respondent could not also provide a clear rebuttal on the computation of taxable turnover or the alleged short-payment.

12.5 In view of the above, certain factual gaps remain and it is clearly essential that proper verification is done as to payment of the applicable tax of Rs.1,16,11,766 on the Invoice No. ISR 0001615 dated 31.12.2016 raised by the assessee on 'M/s. SEEC Asia' towards maintenance fee for the quarter ending Q1 & Q2 for Rs.7,74,11,790/- which was not reportedly included in ST-3 returns filed. The appellant is not disputing the liability for service tax payment of above Rs.1,16,11,766 and he is repeatedly affirming that the payment has been made but due to clerical mistake, the

above invoice along with tax was not reflected in the ST-3 returns filed though booked in their ledger account of SEEC Asia by the Assessee.

12.6 The appellant has submitted a detailed reconciliation statement relating to payment of service tax on the above invoice as Annexure 11 (Pg.No. 98 of the paper book) which needs verification and reconciliation.

12.7 As such, we hold that the demand of Rs.1,16,11,766 is not sustainable if the tax paid is confirmed by such verification by the Adjudicating Authority. So, the issue is remanded for carrying out such verification with a notice to the Appellant.

13. For the reasons recorded in the foregoing paragraphs, we hold that the findings of the Original Adjudicating Authority cannot be sustained and the impugned Order-in-Original No. 48/2022 CH.N.GST dated 28.03.2022 confirming the demand of Service Tax under the alleged category of "import of services," for Rs.36,77,40,000/- together with interest under Section 75 and penalties under Sections 77 and 78 of the Finance Act, 1994, is hereby set aside but, regarding confirmation of demand of service tax of Rs.1,16,11,766/- allegedly short

paid towards service provided to M/s. SEEC Asia during the month of December 2006 is required to be verified by the Adjudicating Authority. On reconciliation, if the above service tax payment is already paid as repeatedly submitted by the appellant, the demand would not survive.

14. Thus, the appeal is partly allowed and partly remanded on the above terms.

(Order pronounced in open court on 15.12.2025)

Sd/-

**(VASA SESHAGIRI RAO)**  
MEMBER (TECHNICAL)

MK

Sd/-

**(P. DINESHA)**  
MEMBER (JUDICIAL)