CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD
REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 30548 of 2018
(Arising out of **Order-in-Original** No.HYD-SVTAX-HYC-APP-097/17-18 (APP-I) dated 12.01.2018 passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad)

M/s Arunachala Logistics (P) Ltd., .. **APPELLANT**
H.No. 8-2-1/1/3, Avatar Nivas,
Srinagar Colony, Main Road,
Punjagutta, Hyderabad,
Telangana – 500 049.

VERSUS

Commissioner of Central Tax Hyderabad – GST .. **RESPONDENT**
GST Bhavan,
L.B. Stadium Road,
Basheerbagh, Hyderabad,
Telangana – 500 004.

APPEARANCE:
Shri Y. Sreenivasa Reddy, Advocate for the Appellant.
Shri B. Subhas Chandra Bose, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30129/2026

Date of Hearing: 10.11.2025
Date of Decision: 27.02.2026

[ORDER PER: A.K. JYOTISHI]

M/s Arunachala Logistics (P) Ltd., (hereinafter referred to as appellant) are in appeal against the order of the Commissioner (Appeals) dated 12.01.2018 (impugned order), whereby, he has upheld the order passed by the Original Authority in so far as tax demand was concerned, though the penalty under Section 78 was reduced to Rs. 9,30,871/- as against the penalty of Rs. 18,61,742/- imposed by the Original Authority.

2. The brief fact of the case is that the appellants are engaged in providing 'Clearing and Forwarding Agent Services' and 'Goods Transport Agency (GTA) Services. The Department noticed that they were incurring certain expenditure towards receipt of security services from various service providers, who were other than body corporates and therefore in terms of

Section 68(2) of the Finance Act 1994 read with Notification No. 30/2012-ST dated 20.06.2012, the appellants were liable to pay service tax on such security services received by them to the extent of 75% of tax payable. On adjudication, Adjudicating Authority has simply taken into consideration the provisions of Notification No. 30/2012-ST holding that the appellants were required to pay partial service tax under Reverse Charge Mechanism (RCM). He did not agreed with the contention of the appellant that as per their agreement with the service provider, service tax was liable to be paid by the service provider and the same was reimbursed by the appellant to them and therefore there is no loss of revenue. The Commissioner (Appeals) has also only taken into account the statutory provisions and held that as per the statutory provision, the service tax was required to be paid under RCM to the extent of 75% of the service tax payable and also holding that they cannot disown the responsibility cast on them under the law on the grounds that the service provider had paid entire amount of service itself on the service received by them. It was also observed that even assuming their plea is admissible, they need to establish that tax had, in fact, been paid by such service provider. However, it was not established that said providers had paid the service tax and there is no evidence that the service providers had in fact paid 100% on the service provided.

3. Learned Advocate submits that as is apparent from the original order that in terms of the work orders issued, service tax being collected by the service providers and reimbursed and that the ST-3 returns of the service providers show that they had paid service tax on the entire consideration though this amount is shown as payable under RCM. The invoices issued by the service provider show that the service tax was collected by providers. In this regard, he is also relying on various case laws cited below in support of that the appellant is not required to pay the tax again:

i) Mahanandi Coalfields Ltd., Vs Commissioner of CGST &CX, Rourkela Commissionerate [2020 99) TMI 477 – Cestat Kolkata]
ii) Utility Labour Suppliers Vs Commissioner of CE, Ahemadabad-II [2024 (11) TMI 1227 – Cestat Ahmedabad]
iii) Saraswati Engineering Vs CCE & ST, Rajkot [2023 (12) TMI 1005 – Cestat Ahmedabad]
iv) Dhariwal Industries Ltd., Vs CCE & C.-Anand [2023 (10) TMI 595 – Cestat Ahmedabad]
v) Transpek Silix Industries Pvt Ltd., Vs Commr of C. Ex, Vadodara-I [2018 (17) GSTL 434 (Tri-Ahmd)]

He is also submitting that under indirect tax, there is no bar in paying service tax by person other than one liable to pay service tax. He is relying on the following judgments:

i) Delhi Transport Corporation Vs Commissioner of Service Tax [2015 (38) STR 673 (Del)]
ii) Jay Jee Enterprises Vs CCE & ST, Daman [2021 (9) TMI 1201 – Cestat-Ahmedabad]

He is also contesting the invocation of extended period is bad in law as the entire case has been based on appellant's own records. Moreover, the appellant is also eligible for taking credit and therefore there could not have been any malafide intent in not paying the service tax under RCM.

4. Learned AR reiterates the findings of the Original Authority as well as Commissioner (Appeals). He also points out that from the copies of the ST-3 returns in respect of some of the service providers, the value of consideration was shown under the column "amount on which service tax was payable under partial reverse charge", which would indicate that service provider did not treat themselves as having paid the full tax and thus the documents furnished do not establish that 100% of tax on impugned services was indeed paid by the service provider themselves as claimed by the appellant.

5. Heard both the sides and perused the records.

6. The short question for determination is whether in this case, the appellant has not discharged the service tax liability cast on him under RCM in relation to certain taxable services received by them. The main ground taken by the appellant is that the service providers themselves have paid the entire 100% service tax liability on the taxable value and merely because they were required to pay 75% of the tax payable under RCM, there cannot be a demand on them when the entire tax liability stands settled. We have perused the case laws cited by the appellant in the case of Mahanandi Coalfields Ltd., supra, wherein, same issue was examined. The Tribunal, interalia, held that there is no need to confirm the demand again when service tax stands already paid and that there is no loss of revenue to the exchequer. They have also taken into account judgment of the Tribunal in the case of Navayug Alloys Pvt Ltd., Vs CCE, Vadodara-II [2009 (13) STR 421 (Tri)], Mandev Tubes Vs CCE, Vapi [2009 (16) STR 724 (Tri- Ahmd)], Umasons Auto Compo (P) Ltd., Vs CCE, Aurangabad [2016 (46) STR 405 (Tri-Mum)] in support that even if tax was liable to be paid under RCM but already paid by the service provider, it was not upon to the Department to confirm the same against the appellant. In the case of Utility Labour Suppliers, supra, similar views were taken relying on certain judgments. The relevant portion is cited below:

> 4.5 Without prejudice, we also find that once the service tax on entire value has been discharged there cannot be double taxation. In the present matter undisputedly the service tax has been paid by the Pharma companies on Appellant's activity. The demand of service tax from the Appellant would be double taxation on same amount which itself is erroneous. Hence the demand is not sustainable for this reason as held in case of Dinesh M. Kotian - 2016 (91) TMI 973 - CESTAT-MUMBAI = 2016 (42) S.T.R. 772 (Tribunal), India Gateway Terminal (P) Ltd. - 2010 (20) S.T.R. 338 (TRI.), Lone star Engineers - 2017 (47) S.T.R. 133 (TRI.) and CCE, Meerut-II v. Geeta Industries P. Ltd. - 2011 (22) S.T.R. 293 (TRI.).,
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> 4.6 We find that tribunal in the case of Navyug Alloys Pvt. Ltd. v. CCE & C, Vadodara 2009 (13) S.T.R. 421 (Tribunal) supra has held that "once tax already paid on the services, it was

not open to the Department to confirm the same against the appellant, in respect of the same services".

7. Therefore, we find that when the entire service tax liability has been discharged by the service provider in respect of the amount which is required to be discharged by him in terms of the notification regulating the payments on forward charge basis as well as under RCM by the respondent, it has to be held that any demand again from the service recipient would amount to double taxation. It is a fact that as per the provisions both service provider and recipient are required to discharge service tax liability in the case of aforesaid service in a particular proportion i.e. 25% & 75% respectively. However, if the service provider has himself has discharged the entire liability either on his own or as per the understanding between the service provider and service recipient, any further demand would lead to double taxation on the same set of services. The payment to the extent of 75% has to be treated as payment made behalf of the service recipient. In the present appeal, however, we find that the appellants have not been able to satisfy the Original Authority that the entire service tax in respect of provision of said service has been discharged by the service provider themselves. They have also not been able to conclusively prove that they had reimbursed the entire amount including the service tax component to the service provider so as to claim that their liability has been discharged by provider of the taxable service on their behalf. Be the case as it may, this factual aspect is required to be examined and the appellant can adduce necessary evidence to this effect. If the entire service tax liability has been discharged suo-moto by the service tax provider then the demand against the appellant again would not sustain to that extent. We find the judgments cited by the appellant are relevant in this regard. However, whatever there is

no evidence that the same has been discharged 100%, either directly or on behalf of the appellant, the demand would sustain along with the interest.

8. In so far as the issue of extended period and imposition of penalty is concerned, we find that the main plea taken by the appellant is that their service provider himself has paid the entire amount. However, they were aware about the statutory provisions of payment of certain portion of tax payable under RCM by the recipient of service. It is also on record that they have not been able to produce evidence to the fact that 100% service tax has been paid or discharged on their behalf by the service provider. Thus, we do not find any merit in their submission that extended period cannot be invoked in the facts of the case. In fact, revenue neutrality under RCM cannot be a ground for non-invocation of extended period as observed by Hon'ble Supreme Court in the case of Star Industries Vs Commissioner of Customs (Imports), Raigad [2015 (324) ELT 656 (SC)]. Similarly, the penalty under Section 78 is also justifiable to the extent demand to be confirmed, if any, after re-calculation of demand.

9. To sum up, the matter is remanded to the Original Adjudicating Authority who shall satisfy himself regarding payment of service tax by the service provider themselves to the extent of 100% and to that extent the demand against the appellant would not sustain on merit. In respect of remaining amount, the demand will sustain.

(Pronounced in open court on 27.02.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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