CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. III

SERVICE TAX APPEAL NO. 52115 OF 2022

[Arising out of the Order-in-Appeal No. 192 (SM)/ST/JPR/2022 dated 26/07/2022 passed by Commissioner (Appeals), Central Excise & CGST, Jaipur.)

Shri Bhupendra Saini, **......Appellant**
S/o Ashok Kumar Saini,
Ward No. 7, Kanakwali Dhani,
Dhania Nawalgarh, Tel – Nawalgarh,
Distt. Jhunjhunu.

Versus

Commissioner (Appeals), **....Respondent**
Central Excise & CGST, Jaipur,
NCRB, Statue Circle,
Jaipur – 302 005.

APPEARANCE:

Ms. Parul Sachdeva, Advocate for the appellant.
Shri Anil Kumar, Authorized Representative for the Department

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51314/2026

DATE OF HEARING : 27.07.2026
DATE OF DECISION: 11.08.2026

P.V. SUBBA RAO

Shri Bhupendra Saini[1] filed this appeal to assail the order dated 26.7.2022 passed by the Commissioner (Appeals) in which he upheld the order dated 30.3.2021 passed by the Deputy Commissioner and rejected the appellant's appeal. The Deputy Commissioner had decided the proposals in the show cause

1. **appellant**

notice dated 22.4.2019[2] issued to the appellant and confirmed demand of service tax of only Rs. 74,909/- of the proposed demand of Rs. 1,75,874/- under the proviso to section 73(1) of the Finance Act, 1994[3] along with interest under section 75 and imposed penalties under section 77 and 78 of the Act on the appellant.

2. The appellant was a service provider but he was not registered with the service tax department. On the basis of the information received from the income tax department in the form of Form 26AS of the appellant, investigations were initiated. The appellant was requested repeatedly to provide information such as income tax returns for the relevant period, Form 26AS, VAT/Sales Tax Returns, bank accounts, contracts, balance sheets, etc. but the appellant had not provided any and therefore, based on the available information, the SCN was prepared and issued.

3. In its reply, the appellant submitted a revised Form 26AS for the financial year 2013-2014 because the client, M/s. SR Enterprises had erroneously entered an amount of Rs. 12,36,822/- as having been paid to the appellant which was actually paid to someone else. Thereafter, SR Enterprises revised its TDS returns and this amount was deducted from Form 26AS and the revised Form 26AS was generated.

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2. SCN
3. Act

4. After considering the revised return, the Deputy Commissioner dropped part of the demand and only confirmed demand of service tax of Rs. 74,909/- on taxable value of Rs. 6,06,061/- received by the appellant during FY 2013-2014.

5. Several submissions were made from both sides before us. The main contention of the appellant is that services up to the value of Rs. 10,00,000/- during a Financial Year were exempted by Notification No. 33/2012-ST dated 20.6.2012 but this notification was not applied to their case by the lower authorities. If this notification is applied, since its total turnover was only Rs.6,06,061/- no service tax was payable.

6. Learned authorised representative submitted that this notification was conditional – one of the conditions [2(viii)] being that 'the aggregate value of taxable services rendered by a provider of taxable service from one or more premises does not exceed ten lakh rupees in the preceding financial year'. Since the appellant did not produce any evidence or details of the turnover for the preceding financial year (2012-2013), the Deputy Commissioner and Commissioner (Appeals) were correct in not extending the benefit of this notification.

7. Learned counsel, on the other hand, draws attention of the bench to the Form 26AS for the FY 2012-2013 placed at page 59 of the appeal which shows no payments at all to the appellant. He, therefore, submits that the turnover during 2012-2013 was Nil and therefore, the benefit of the exemption Notification No.

33/2012-ST should be extended to the appellant for the FY 2013-2014.

8. We find that there is nothing on record to show that the appellant had rendered any taxable services during the year 2012-2013. The entire case is based on the amounts paid to the appellant as reflected in Form 26AS. In the absence of any other document, we find that Form 26AS for FY 2012-2013 is a reasonable document to rely upon to determine the turnover of the appellant.

9. Since there is no turnover on record of the appellant for FY 2012-2013, it is entitled to the benefit of exemption Notification No. 33/2012-ST for FY 2013-2014. Since the value of taxable services rendered during this Financial year 2013-2014 is admittedly less than Rs. 10,00,000/-, the appellant is entitled to the benefit of the exemption.

10. The other submissions made by both sides need not be considered as the demand cannot sustain once this notification is applied.

11. In view of the above, the demand of service tax on the appellant deserves to be set aside along with consequential interest and penalties.

12. The impugned order is set aside and the appeal is allowed with consequential relief to the appellant.

(Order pronounced in open court on 11/08/2026.)

(BINU TAMTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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