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Appeal No. ST/222 &
223/2011

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

Service Tax Appeal No. 222 of 2011

(Arising out of **Order-in-Original** No.18/2010(S.Tax) dated 30.09.2010 passed by
Commissioner of Central Excise, Customs & Service Tax, Tirupati)

S.C.V. Cable Net .. **APPELLANT**
RNR Avenue,
K.T. Road,
Tirupati,
Andhra Pradesh – 517 507.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Tirupati – GST
No. 9/86, West Church Compound,
Amaravathi Nagar, MR Palli Road,
Thirupathi, Chittor,
Andhra Pradesh – 517 502.

AND

Service Tax Appeal No. 223 of 2011

(Arising out of **Order-in-Original** No.18/2010(S.Tax) dated 30.09.2010 passed by
Commissioner of Central Excise, Customs & Service Tax, Tirupati)

S.C.V. Dilip Kumar .. **APPELLANT**
(Proprietor of M/s SCV Cable Net)
RNR Avenue, K.T. Road,
Tirupati,
Andhra Pradesh – 517 507.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Tirupati – GST
No. 9/86, West Church Compound,
Amaravathi Nagar, MR Palli Road,
Thirupathi, Chittor,
Andhra Pradesh – 517 502.

APPEARANCE:

Shri M.S. Nagaraja, Advocate for the Appellant.
Shri A. Rangadham, Authorised Representative for the Respondent.

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

FINAL ORDER No. A/30193-30194/2025

Date of Hearing:04.03.2025
Date of Decision:13.06.2025

[ORDER PER: ANGAD PRASAD]

Appeal No. ST/222/2011 has been filed by M/s SCV Cable Net and
Appeal no. ST/223/2011 has been filed by Mr. S.C.V. Dilip Kumar, Proprietor

of M/s SCV Cable Net, Tirupati against the same Order-in-Original No. 18/2010(S.Tax) dated 30.09.2010 (impugned order).

2. Brief fact of the case is that the appellants have been providing the services of cable operator and Multi System Operator's Service in and around Tirupati. The appellants entered into agreements with the following Pay channels (Broadcasters), which are subscription agreements on yearly basis:

- i) M/s ESPN Soft Ware Company which provides ESPN and Star Sports Channels
- ii) Starden India Pvt Ltd., which provides all the star channel
- iii) M/s Zee Turner India Pvt Ltd., which provides ZEE group channels
- iv) Maa Television Network, which provides Maa TV
- v) M/s Ushodaya Enterprises, which provides ETV channels
- vi) M/s Channel Plus, Chennai, which provides Sun and Gemini channels
- vii) M/s Sony Television Net Work, which provides Sony group of channels

Basing on the number of Sub-connections, the appellants used to make payment to the various channels by way of issuing Demand Drafts. The Channels collect service tax from the appellants. They have got Centralised Service Tax Registration and they pay the service tax to the Central Government. The Appellants obtained Service Tax Registration during December, 2005 and paid an amount of Rs. 50,000/- on the same day towards service tax. Later on, they paid service tax of Rs. 1.5 lakhs. Further, payment of service tax could not be made by them for the reason that the cable operators did not pay them the service tax and they had to fight a legal battle with M/s INCABLE Net, Tirupati Pvt Ltd., for the ownership of the business and in this process, the appellants faced several difficulties and had to deposit Rs. 1 lakh every month in the Court, which

they did for 25 months. The appellants felt that they were entitled to take credit of the service tax collected from them by the Pay Channels and set off the same against the amount of service tax payable by them in respect of the services rendered by them to the cable operators. After the setting off, the appellants will be liable to pay a nominal amount of service tax only.

3. Further, it is noted that the Central Excise Officers visited the premises of the appellants on 31.03.2005, verified the records and registered an offence case in P.O.R.No.11/04-05 dated 31.03.2005, as mentioned in para 1 of the Show Cause Notice. Then, they kept quiet for a period of 3 years and on 28.03.2008, addressed a letter to the appellants, to produce information pertaining to the amounts received by the appellants from the cable operators. On 12.08.2008, the Investigating Officer recorded the statement of Sri N. Koundinya, Chief Executive Officer of the Appellant's Firm. Further, statements have been recorded from him on 27.08.09 and 19.01.09. On 21.10.2009, a Show Cause Notice was issued to the appellants' firm and also to Sri S.C.V. Dilip Kumar, Proprietor of M/s SCV Cable Net and N. Koundinya, CEO of the said firm. On adjudication, without considering the submissions made by the appellants, the Commissioner, Tirupati Commissionerate, confirmed demand of service tax of Rs. 2,61,17,081/- in respect of MSO/cable operator service, Rs. 6,67,440/- in respect of Sale of Space or time (including Education cess), demanded interest on the said amounts, and imposed penalties of Rs. 200/- per day under Section 77, Rs. 2,61,17,081 under Section 78 and demanded late fee of Rs. 2,000/- for each return under Section 77 of the Finance Act, 1994. Aggrieved by the said order, the appellants are before this Tribunal.

4. Learned Counsel for the appellants submits that the appellant is a Multi System Operator (MSO) and was providing service to Cable Operators

in Tirupati who in turn provide Cable TV Service to the customers through their own Cable network. The Multi System Operator (MSO) service was included in the definition of "Cable Operator" in Section 65(105)(zs) effective from 10.09.2004. In addition, the appellant was providing "Sale of Space or Time for display of Advertisements" as defined in Section 65(105)(zzzm) with effect from 01.05.2006. The appellant had entered into agreements with TV Channels/Broadcasters such as Zee TV, Star TV, ESPN, Sony, etc., for granting broadcasting rights in its area on payment of subscription based on the estimated number of TV Connections through the Cable Operators to the Consumers. The TV Channels/Broadcasters provide Decoders to the MSO for the opted channels for receiving encrypted signals. The receipt of encrypted programs from the broadcasters is the "input service" which is used to provide the "output service" of decoded TV programs to the Cable Operators who in turn supply TV signals to their subscribers. The Cable Operators pay monthly subscription to the appellant (MSO) based on the number of cable connections they have provided to their consumers. The Appellant (MSO) thus receives "input service" in the form of encrypted programs from the TV Channels and provide taxable "output service" of decoded TV Channel Programs to the Cable TV Operators. The subscription amounts collected/received from the Cable TV Operators is the value of "taxable service" on which the appellant was liable to pay service tax. The Department issued show cause notice dated 21.10.2009 proposing to demand Service Tax of Rs. 2,54,49,641/- on the service of Multi System Operator (MSO) provided to cable TV Operators as defined in Section 65(105)(zs) for the period from 10.09.2004 to October, 2008 and Rs. 6,67,440/- under the classification of "Sale of Space or Time for Advertisement" as defined in Section 65(105)(zzm) of the Finance Act, 1994 for the period from 01.05.2006 to December 2008. The Learned

Commissioner of Central Excise & Service Tax, Tirupati vide Order-in-Original No. 18/2010 (S.Tax) dated 30.09.2010 has confirmed the demand of Service Tax of Rs. 1,61,17,081/- along with interest and penalties as mentioned above. The Commissioner has denied the benefit of CENVAT Credit on the Input Service while confirming the demand of service tax on the service provided to the Cable Operators.

5. Learned AR for the Department reiterated the findings given by Learned Commissioner and also submitted that appellants suppressed the material fact. In spite of several demands, appellants has not provided required documents. Appellants has not provided or disclosed information voluntarily and the same was recorded during the course of enquiries conducted by Department. Appellants knowingly has withheld the information with an intent to evade payment of service tax. Proprietor and CEO were personally liable to pay service tax as well as relevant documents/information. Dispute among partners is immaterial for liability to pay tax.

6. Learned Counsel for the appellant has relied on the judgment of Hon'ble Supreme court in the case of Union of India Vs Intercontinental Consultants and Technocrats Pvt Ltd., [2018 (190) GSTL 401 (SC)]. He has also relied on the judgment of Coordinate Bench in the case of Reetika Cable Vs CCGST, Chandigarh [2021 (53) GSTL 261 (Tri-Chan)].

7. Heard both the parties' submissions and perused the records. These two appeals are arising out of the same Order-in-Original, therefore, both these appeals are taken up together for disposal.

8. The legal provisions for determination of the value of taxable service in terms of Section 67 of the Finance Act, 1994 and Rule 6 of Service Tax Rules read as under:

Prior to amendment of the Finance Acct, 1994:

67. Valuation of taxable services for charging service tax.

“For the purposes of this Chapter, the value of any taxable service shall be the gross amount charged by the service provider for such provided or to be provided by him.”

.....

Section 67 as substituted with effect from 18.04.2006:

67. Valuation of taxable services for charging service tax.-

“(1) subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall,

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

.....”

“Rule 6. Payment of Service Tax – (1) The service tax shall be paid to the credit of the Central Government, -

(i) By the 6th day of the month, if the duty is deposited electronically through internet banking; and

(ii) By the 5th day of the month, in any other case,

Immediately following the calendar month in which the payments are received, towards the value of taxable services.

.....”

9. The appellant submits that the value of service is the gross amount charged by the service provider for such service provided or to be provided by him. In terms of Rule 6(1) of the Service Tax Rules, 1994 the service tax was payable by the 5th /6th of the month immediately following the calendar month in which the payments are received.

10. The amounts computed in the show cause notice and confirmed in the impugned order is not the amount charged by the appellant to provide taxable service to the Cable Operators. Value adopted in the show cause notice and the impugned order being not the amount charged for providing the service of MSO to the cable operators and being entirely presumptive or speculative.

11. Learned Counsel for the appellant also submitted the details of the collections and payments made for the period from September 2004 to October 2008. However, the same was rejected as being not sufficient.

12. In this regard, finding given by Learned Commissioner in Order-in-Original especially para no. 22 & 23 which are relevant for disposal of these appeals as thus:

"22. Verification of the particulars furnished by M/s SCVCN, Tirupati, and the aforementioned Cable Operators and the channel providers as details above, revealed that M/s SCVCN have under-invoiced/under-stated the number of connections and total amount paid. It also appeared that M/s SCVCN, have not furnished true and correct data/particulars/information, and they had suppressed the requisite information/details/particulars. Further, by under-invoicing/under-stating (which inferred when compared with the no. of connections subscribed of regional channels like Gemini TV, Teja TV, E-TV, etc.) it appeared that M/s SCVCN have suppressed the facts of no. of connections held by them. On verification of invoices and agreements entered by them with

the channel providers, it appeared that M/s SCVCN were holding and giving signal to more number of subscribers as against the number shown by them in their statement for October, 2008 and the number of subscribers and thereby, the amounts received by them, towards providing the cable operator service were under-stated/under-invoices. It further appeared that the agreements entered with the regional channels reflect the true and correct no. of connections subscribed and served by M/s SCVCN. Therefore, the no. of connections subscribed to the widely viewed, common and compulsory regional Telugu Channel i.e., Gemini TV for all cable operators and other group channels appeared to be correct and true. The number of connections arrived at as per the agreements between 'Gemini' group and SCV cable net appears to reflect the true reality and factual position and it gave the correct no. of connections. Further, the rates given by M/s Star Sat Cable Net, vide their letter dt.12.01.2009 appeared to be correct amounts charged for each connection was also corroborated by the receipts furnished by the other cable operators as detailed above.

23. Moreover, the payments were made by M/s SCVCN for the above, number of connections during the above period mentioned against each entry in the above table. Further, by consenting to pay the amount for the above mentioned number of connections in the written agreements entered into with the channel providers M/s SCVCN have agreed that they were having such number of subscribers or connections. Further, the service of channels to M/s SCVCN forms the part of major input service based on which the service provider provided service to their subscribers. The receipt of payments was confirmed by the channel providers M/s Channel Plus for Gemini TV group or Sun Network and Ushodaya Enterprises, Ramoji Film City who have given the abstract of the account of M/s SCVCN. Shri N. Koundinya CEO of SCVCN appeared before the Superintendent (SIV) and agreed in his written statement given on 19.01.2009 that they have paid for the no. of connections mentioned in the agreements entered with the channel operators and the particulars given by M/s Srinivasa Channel Vision are correct. Therefore, it was established beyond doubt that M/s SCVCN was serving so many no. of subscribers as mentioned in the table supra, which was based on the particulars furnished by M/s Channel Plus (Sun Network). Further, considering the magnitude of no. of households and size of the population of the areas in which the subscribers of SCVCN were located, the no. of connections as agreed upon by M/s SCVCN and Channel Plus appeared to

be exact and correct and the details furnished by SCNCN, Tirupati appeared to be totally wrong.”

13. The Bench had directed on 12.07.2023 to the appellant to give list of dates with regard to ownership of the appellant concerned with supporting documents. Mr. SCV Dilip Kumar has filed his affidavit dated 31.07.2023 with Income Tax Return from 2004-05 to 2007-08.

14. Proprietor Shri SCV Dilip Kumar stated in his affidavit that his father Shri SCV Subramaniam Naidu handed over the business of MSO in 2001 to “Incable Net, Tirupati” and started functioning in the capacity of shareholder, Managing Director of the company. The firm was named “SCV Cable Net”. His father had not been allotted any shares and his appointment as Managing Director was disputed. The dispute for ownership of the company between Mr. RVR Choudary, Managing Director in the CableNet, Tirupati Pvt Ltd., and Mr SCV Dilip Kumar (son of Mr SCV Subramaniam Naidu). The dispute was carried to the Hon’ble High Court and Supreme Court and finally settled through compromise dated 27.11.2010 between parties. The parties agreed to settle on 50% share for each in the business of Cable TV operations. The Hon’ble High Court of Andhra Pradesh by order dated 07.12.2010 has recorded the Compromise Decree. During the period of September 2004 to December 2008 Mr. RVR Chowdary, Managing Director of M/s In CableNet Tirupati Pvt Ltd., started his own cable operations under the name of M/s In Cable Net Tirupati Pvt Ltd., and Mr. SCV Dilip Kumar started operating under the name of M/s SCV Cable Net, Tirupati. Due to dispute of the ownership, the pending amount collected from the cable operators could not be deposited in the official bank account of SCV Cable Net. The amount collected by swearer for the purpose of SCV Cable Net was disclosed in his book and Income Tax return as per details below:

Financial Year ending	Income from MSO Operations
31.03.2005	1,08,27,032
31.03.2006	1,11,23,163,65
31.03.2007	1,88,97,196
31.03.2008	2,07,06,078

Accordingly, computed service tax leviable on the basis of income from the business of MSO and submitted it to the service tax authorities and also shown the amount of Cenvat Credit eligible on the service tax paid. It is also mentioned that swearer filed ST-3 return from 2009-10 onwards and declared the value of taxable service under MSO amounting to Rs, 91,88,000/- for the period from April 2009 to September 2009. The Service Tax Department has accepted the same.

15. Mr. SCV Dilip Kumar has not furnished any document relating to ownership dispute. Even copy of the agreement/compromise was not filed. During the period from September 2004 to December 2008 Mr. RVR Chowdary was Managing Director of M/s Incable Net Tirupati, whereas swearer or his father was operating the appellant firm. Therefore, Mr. SCV Dilip Kumar or his father was operating M/s SCV Cable Net Tirupati during the relevant period. In these circumstances, due to ownership dispute the amount collected from cable operators could not be deposited in the official bank account of SCV Cable Net is not reliable and acceptable. Similarly, income shown in the Income Tax Return is also not reliable and acceptable after department inquiry.

16. The case relied upon by the Learned Counsel for the appellant Union of India Vs Intercontinental Consultants and Technocrats Pvt Ltd., supra, wherein it was held as under:

"24. In this hue, the expression 'such' occurring in Section 67 of the Act assumes importance. In other words, valuation of taxable services for charging service tax, the authorities are to find what is the gross amount charged for providing 'such' taxable services. As a fortiori, any other amount which is calculated not for providing such taxable service cannot a part of that valuation as that amount is not calculated for providing such 'taxable service'. That according to us is the plain meaning which is to be attached to Section 67 (unamended, i.e., prior to May 1, 2006) or after its amendment, with effect from, May 1, 2006. Once this interpretation is to be given to Section 67, it hardly needs to be emphasised that Rule 5 of the Rules went much beyond the mandate of Section 67. We, therefore, find that High Court was right in interpreting Sections 66 and 67 to say that in the valuation of taxable service, the value of taxable service shall be the gross amount charged by the service provider 'for such service' and the valuation of tax service cannot be anything more or less than the consideration paid as quid pro qua for rendering such a service."

This judgment supports Revenue, since after inquiry, Authorities found out what is the actual gross amount as income then charged accordingly. Details furnished by appellant has not found correct on the enquiry. Learned Counsel has also relied on the judgment in the case of Reetika Cable Vs CCGST, Chandigarh, supra, wherein it was held as follows:

"6. in terms of Section 67 of the Finance Act, 1994, the appellants are liable to pay service tax on the gross value of subscription received by them. The said view having the support of the Hon'ble Apex Court in the case of Intercontinental Consultants and Technocrats Pvt. Ltd (supra)"

Therefore, finding given in the above case is also not applicable to the present case. In the case of West Coast Paper Mills Vs CCE & ST, Mangalore, relied upon by the appellant, no any allegation that such consideration has been specified under-stated. Whereas, in the instant case, income shown by

the appellant has not been found correct and reliable. So, this finding also not applicable in the instant case.

17. Learned Counsel for the appellant argued that Learned Commissioner had denied the Cenvat Credit on the ground that appellant had not provided any evidence in this regard. Whereas, the invoices issued by the TV Channels countering the value of service and the amount of service tax paid by the appellant to the channel providers. The quantum of service tax paid on the input service received from the TV channels, validity of tax invoice received and use of input service to provide output service to the cable operators was as evident and could not have been denied. The services of channels to SCV Cable Net forms part major input service based on which the service provider provides service to their subscribers. It is also argued that if duty is found payable on the final product the benefit of credit on the invoice cannot be denied. In this regard, Learned Counsel for the appellant cited Supreme Court decision in the case of Formica India Division Vs CCE [1995 (77) ELT 511 (SC)] in which it was held that once the Tribunal took the view that they were liable to pay duty on the intermediary product and they would have been entitled to the benefit of the notification had they met with the requirement of Rule 56A, the proper course was to permit them to do so rather than denying to them the benefit on the technical ground that the point of time when they could have done so had elapsed and they could not be permitted to comply with Rule 56A after that stage had passed.

18. Learned Commissioner in his findings observed that the assessee has not produced any evidence in support of their claim and hence, the contention is not tenable as per law. At this stage also appellants failed to provide any documents and therefore, they are not entitled for any credit relating to it.

19. The appellant submitted CA certificate dated 10.11.2010 stating that the service tax liability after setoff against the Cenvat Credit for the period from 01.09.2004 to 31.12.2008 on the services of MSO and sale of space or time for advertisement was Rs. 9,17,470/-. The certificate was prepared after adjudication. Therefore, it is immaterial at this stage and it cannot be relied upon.

20. Learned Counsel for the appellant argued that the appellant has not collected service tax from the cable operators as is evident from the details of receipt submitted by it. Therefore, the value of taxable service is required to be treated as cum tax value and the benefit of cum tax is required to be extended. Details of income given by the appellants are not believable in comparison to department inquiry. Therefore, appellants are not entitled for benefit of cum-tax.

21. Learned Counsel for the appellant argued that the Central Excise Officer visited the premises of the appellant on 31.03.2005, registered offence case POR No.11/2004-05 after verification of records, as stated in show cause notice. Thereafter, Department issued summons and recorded the statement on 12.08.2008. The facts and issues were in the knowledge of Department from 31.03.2005 onward. When the facts are in the knowledge of the Department, there is no case of wilful mis-statement or suppression of facts or intention to evade payment of tax on the part of the appellant. The appellant has further explained that there were differences with the partner and ownership litigation before the Hon'ble High Court and Hon'ble Supreme Court and the matter was ultimately settled on 07.12.2010. The appellant has suffered financially, the extra-ordinary circumstances in which the MSO service was provided during the period may

be taken into consideration there was also confusion in the industry as to whether the MSO was liable to pay service tax from 10.09.2004. There was no deliberate suppression of facts or malafide intention on the part of the appellant. In these circumstances, the period of limitation is not invokable. Appellant has also relied on CESTAT, Chandigarh Final Order No. A/60167-60177/2019 dated 22.02.2019 in which it was held that the appellants were under bonafide belief that they are not liable to pay service tax as they are entitled for benefit of exemption under notification no. 6/2005-ST dated 01.03.2005 and Notification No. 33/2012-ST dated 20.06.2012, therefore, they did not pay service tax. Moreover, there was confusion in the industry during the relevant period whether the appellants are liable to pay service tax or the MSO liable to pay service tax on their activity, in that circumstances, the benefit of doubt goes in favour of the appellants. Therefore, we hold that the extended period is not invokable. Learned Counsel for the appellant also relied on the judgment of Pushpam Pharmaceuticals Company Vs CCE, Bombay [1995 (78) ELT 401 (SC)], in which it was held that "where facts are known to both parties the omission by one to do what he might have done and not that he must have done, does not render it suppression". Hon'ble Supreme Court in the case of Pahwa Chemicals Pvt Ltd., Vs CCE, Delhi [2005 9189) ELT 257 (SC)] in which it was held that "all the facts were within the knowledge of the Department, there is no justification for invoking the extended period of limitation". In this regard, para 26 and 27 of Order-in-Original are relevant to quote which is thus:

"26. From the foregoing, it appeared that M/s SCVCN have not provided true and correct information to the Officers of Central Excise about their activities of providing the Cable Operators (MSO) service and Advertisement Service. Though M/s SCVCN have provided one page

information about their collection/amounts received by them, it appeared to be incorrect and not corroborated by any other documentary evidence. Even after issue of summons for 10 times, they had not provided the complete and true details/particulars/information. It also appeared that M/s SCVCN had suppressed the facts and adopted dilatory tactics in furnishing the details of number of connections held by them under MSO service and the amount received towards the said service. Further, it appeared that Shri N. Koundinya, the CEO of M/s SCVCN has failed to produce and provide the requisite information/particulars/details, even while giving statement under Section 14 of the Central Excise Act, 1944/Section 83 of the Finance Act, 1994. M/s SCVCN and its Proprietor Shri M/s SCV Dilip Kumar and its CEO Shri N. Koundinya have failed to produce and provide the requisite information/particulars/details and also failed to respond to the summons and these acts and conduct of M/s SCVCN, its Proprietor and CEO has seriously hampered the enquiry/investigation. Even on his last appearance on 19.01.2009, Shri N. Koundinya had not produced the details/documents and on the other hand, even in his last appearance on 19.01.2009 he had tried to obstruct the investigation. It was evident from the aforesaid acts and attitude of M/s SCVCN its Proprietor Shri Dileep Kumar and its CEO Shri Koundinya that they had not cooperated with the Officers of the Department in the instant investigation/enquiry and as such the nominal and little information provided by them which appeared to be incomplete and incorrect. This aspect has further been strengthened by the fact that, though the copies of the agreements with channel providers were expected to be naturally available with the service provider because they have executed the agreements they chose not to give any of the copies which was a proof of their malicious attitude towards hiding records. Further, on request of the Officers of Central Excise & Service Tax, Tirupati Division, the Income department provided copies of Income Tax returns of Shri SCV Dileep Kumar and SCV Kiran Kumar and on scrutiny of the aforesaid Income Tax returns revealed that the transactions of M/s SCVCN were not reflected in the said Income Tax returns.

27. Therefore, under the above explained position, M/s SCV Cable Net, RNR Avenue, K.T.Road, Tirupati by not paying service tax and withholding the information and concealing the fact of rendering the above mentioned services, and by not filing the periodical returns have purposefully and intentionally suppressed the facts from the department and evaded payment of service tax. In view of this, it appears that the

proviso of extended period of time to Section 73 of The Finance Act, 1994 is necessary to be invoked.”

22. Appellant in spite of several summons, they have not provided information or any documents even after issuing summons for 10 times, they have not provided the complete and true details/information. It is clear from the above mentioned facts that appellants purposefully and intentionally suppressed the facts and evaded payment of service tax. In these circumstances, Learned Commissioner rightly invoked extended period as provided under Section 73 of the Finance Act. Therefore, no any illegality in this regard.

23. As regards the contention of the appellant that the Department has arbitrarily calculated the duty amount. We find that the Department has calculated the tax liability based on number of connections subscribed widely viewed channels which is common to all package and therefore in view of non-production of authentic details regarding number of subscriptions, Department has taken a basis which is acceptable. Similarly, the rate charged has also been taken on the basis of base rate per connection in terms of agreement between the appellant and channel providers. No cogent or sufficient documents have been produced in the course of investigation nor before this Tribunal. Even the income tax details to support the income which can be considered as gross amount for the purpose of service tax is not acceptable in view of the fact that it is an admitted position that the income of the firm and Shri SCV Dilip Kumar was reflected jointly in the said account. In view of the same, the value determined by the Department for demanding the duty does not suffer from any infirmity. It is to be noted that there is no dispute as regards chargeability of service on the service provided by the appellant.

24. After discussion as above, we find that appellants have failed to disclose their correct income/gross value. They have failed to pay service tax after registration. They have paid service tax initially and therefore the ground that there was genuine confusion about taxability is also not tenable. No any reasonable cause for such failure to pay. Since appellants tried to suppress the fact to evade payment of service tax, therefore, period of limitation is rightly invoked in the SCN. No cogent or sufficient documentary evidence relating to payment of service tax has been adduced, so, question of credit of CENVAT does not arise. We are of the view that there is no merit in the appeals. Therefore, appeals are liable to be dismissed.

25. Accordingly, appeals are dismissed.

(Order Pronounced in open court on 13.06.2025)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)