

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
MUMBAI**

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 86658 of 2016**

(Arising out of Order-in-Original No. 94-96/STC-IV/MRRR/2015-16 dated 22.03.2016 passed by the Commissioner, Service Tax-IV, Mumbai.)

**Kiran Gems Pvt. Ltd.**

FE-5011G Block, Bharat Diamond Bourse,  
Bandra Kurla Complex, Bandra (East),  
Mumbai- 400 051.

**.... Appellant**

Versus

**Commissioner of Service Tax-IV, Mumbai**

12<sup>th</sup> Floor, Lotus Info Centre, Station Road,  
Parel (East), Mumbai- 400 012.

**.... Respondent**

**And**

**Service Tax Appeal No. 86659 of 2016**

(Arising out of Order-in-Original No. 94-96/STC-IV/MRRR/2015-16 dated 22.03.2016 passed by the Commissioner, Service Tax-IV, Mumbai.)

**Kiran Gems Pvt. Ltd.**

FE-5011G Block, Bharat Diamond Bourse,  
Bandra Kurla Complex, Bandra (East),  
Mumbai- 400 051.

**.... Appellant**

Versus

**Commissioner of Service Tax-IV, Mumbai**

12<sup>th</sup> Floor, Lotus Info Centre, Station Road,  
Parel (East), Mumbai- 400 012.

**.... Respondent**

**With**

**Service Tax Appeal No. 86660 of 2016**

(Arising out of Order-in-Original No. 94-96/STC-IV/MRRR/2015-16 dated 22.03.2016 passed by the Commissioner, Service Tax-IV, Mumbai.)

**Kiran Gems Pvt. Ltd.**

FE-5011G Block, Bharat Diamond Bourse,  
Bandra Kurla Complex, Bandra (East),  
Mumbai- 400 051.

**.... Appellant**

Versus

**Commissioner of Service Tax-IV, Mumbai**

12<sup>th</sup> Floor, Lotus Info Centre, Station Road,  
Parel (East), Mumbai- 400 012.

**.... Respondent**

**APPEARANCE:**

Shri Shailesh Seth, Advocate for the Appellants

Shri C.S. Pavan, Authorized Representative for the Respondents

**CORAM:****HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)****HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)****FINAL ORDER NO. A/85884-85886/2025**

Date of Hearing: 03.06.2025

Date of Decision: 03.06.2025

***Per: S.K. MOHANTY***

Heard both sides and examined the case records.

2. Brief facts of the case are that the appellants are engaged *inter alia*, in the manufacture and sale of Cut and Polished Diamonds. During the disputed period, the department had issued the show cause notices (SCNs) dated 28.03.2011, 19.10.2011, 12.10.2012 and 28.10.2013, seeking for recovery of Service Tax demand under Section 66A of the Finance Act, 1994 from the appellant. The Service Tax demand was proposed to be recovered with the allegation that the appellants had remitted foreign currency to the companies based outside India and accordingly, are liable to pay Service Tax under the taxable category of Business Auxiliary Service (BAS) and Business Support Service (BSS). In respect of the three SCNs issued for the period October 2010 to March 2013, in addition to the allegation of provision of the Service under the category of BAS and BSS, the department had alleged that the appellants had provided the service under the category of Advertisement, Legal and Professional services, for which they are liable for payment of service tax.

3. The appellants in the grounds of appeal submitted that the first SCN dated 28.03.2011 issued by the department for the period 2006-2007 to 2010-2011 has not yet been adjudicated and the submissions made in reply to the said SCN was adopted by the appellants in respect of the subsequent SCNs issued for the period October 2010 to March 2013. Learned Advocate appearing for the appellants has submitted that in the identical set of facts, in the case of *Shairu Gems Diamonds Pvt. Ltd. Vs Commissioner of Service Tax-IV, Mumbai*, this Tribunal vide Final Order No. A/85454/2023 dated 01.03.2023 has remanded the matter back to the original authority

with the direction to consider the first SCN and thereafter to adjudicate the remaining SCNs issued by the department.

4. On perusal of the case records, we find that the first SCN dated 28.03.2011 issued to the appellants under Section 73(1) of the Finance Act, 1994 for the period from 2006-2007 to 2010-2011 has so far not been adjudicated by the department. Since, the subsequent SCNs in the form of 'Statement of Demand' were issued under Section 73(1A) *ibid*, we are of the considered view, that in absence of adjudication of the SCN dated 28.03.2011 issued under Section 73(1) *ibid*, the matter arising out of the Statement of Demands issued subsequently, cannot be proceeded with for a decision in isolation. We find that under the identical set of facts, this Tribunal has remanded the matter back to the original authority in the case of *Shairu Gems Diamond Pvt. Ltd.* (supra) for adjudication of the matter afresh.

5. Therefore, the impugned order dated 22.03.2016 passed by the learned adjudicating authority is set aside and the appeal is allowed by way of remand to the original authority with a direction to adjudicate the first SCN dated 28.03.2011 and the subsequent SCNs dated 19.11.2011, 12.10.2012 and 28.10.2013 simultaneously. For adjudication of all the SCNs, the original authority should afford reasonable opportunity of personal hearing to the appellants, as per the mandates under the principles of natural justice.

6. In the result, all the appeals filed by the appellants are allowed by way of remand.

(Order Dictated and pronounced in open court)

**(S.K. Mohanty)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**