

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 75119 of 2025**

(Arising out of Order-in-Appeal No. 397/ST-KOL/ST/Kol-S/2024-25 dated 27.09.2024 passed by the Commissioner of C.G.S.T. & C.X., Kolkata Appeals-I Commissionerate, G.S.T. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**M/s. Bajrang Enterprise** : **Appellant**  
73/H/1, Doctor Sudhir Bose Road,  
Kolkata – 700 023

**VERSUS**

**Commissioner of C.G.S.T. and Central Excise** : **Respondent**  
Kolkata South Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**APPEARANCE:**

Smt. Shreya Mundhra, Advocate, for the Appellant

Shri S.K. Jha, Authorized Representative, for the Respondent

**CORAM:**

**HON’BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 76671 / 2025**

DATE OF HEARING: 25.06.2025

DATE OF DECISION: 03.07.2025

**ORDER:**

The present appeal has been filed against the Order-in-Appeal bearing No. 397/ST-KOL/ST/Kol-S/2024-25 dated 27.09.2024, wherein the Ld. Commissioner (Appeals) has upheld the demand of service tax of Rs. 8,25,195/- confirmed in the Order-in-Original bearing No.07/AC/ST/ADJN/BHWN/CGST&CX/KolSouth/2021-22 dated 22.12.2021, along with interest and penalty.

2. Brief facts of the case are that M/s. Bajrang Enterprise (hereinafter referred to as the "Appellant") is a sole proprietorship concern engaged in providing transportation services by road to various entities. The Appellant owns a truck (as evident from the Balance Sheet) and provides transportation services without issuing consignment notes. The Appellant obtained Service tax registration under the category of 'transportation of goods by road' but had not filed any Service tax returns for the period in dispute owing to its bona fide understanding that it was not liable to make payment of Service tax.

2.1. As per the Statement of Income & Expenditure and Balance Sheet filed by the Appellant, the Appellant received transportation charges as under: -

FY 2015-16: Rs. 11,30,500/- from Balmer Lawrie and Rs. 77,76,276/- from other parties

FY 2016-17: Rs. 10,50,650/- from Balmer Lawrie and Rs. 70,64,492/- from other parties

2.2. The departmental authorities conducted investigation proceedings based on information/data received from the Income Tax Department/Central Board of Direct Taxes (CBDT). According to this data, there was a gap between the figures of sale of services reflected in Income Tax Returns/Form 26AS. The Department observed that the Appellant had received Rs.81,15,142/- and Rs.83,94,429/- for the Financial Years 2015-16 and 2016-17 respectively as per their Income Tax Returns, but had not filed any ST-3 returns nor paid any Service Tax on these receipts.

2.3. Based on the above data, a Show Cause Notice dated 29.12.2020 was issued to the appellant proposing to demand Service tax of Rs. 8,25,195/- along with interest and penalty, by invoking extended period of limitation.

2.4. The said notice was adjudicated vide Order-in-Original No.07/AC/ST/ADJN/BHWN/CGST&CX/Kol-South/2021-22 dated 22.12.2021, wherein the demands of service tax raised in the notice are confirmed, along with interest and penalty.

2.5. On appeal, the Ld. Commissioner (Appeals) has upheld the said demands vide the impugned order.

2.6. Aggrieved by the confirmation of the demands of Service Tax against them, along with interest and penalty, the appellant has filed this appeal.

3. The Ld. Counsel appearing on behalf appellant submits that the issue in relation to levy of Service tax on transportation service providers where consignment note is not issued is no longer res integra and has been settled in favour of the appellant. In this regard, the Appellant also submits that it is an undisputed fact that they are a sole proprietorship concern engaged in the activity of transportation of various materials to various destinations by road using its own truck; that the Department has nowhere disputed the nature of service and has well accepted that the Appellant has provided transportation of goods service to various parties during the disputed period without issuing consignment notes. It is further that the said fact has been noted and accepted by the adjudicating authority as well as the lower appellate authority. Thus, the Appellant contends that by accepting the fact that transport services provided by

the Appellant were not in the capacity of GTA, the Appellant is not liable to pay service tax as the said service of transportation is covered under Negative List and the service itself is not taxable.

3.1. Further, it is the contention of the Appellant that being a small sole proprietorship concern with a single truck, providing transportation services without issuing consignment notes, they cannot be classified as a GTA; that therefore, the services provided fall squarely within the Negative List and are not taxable. Reliance in this regard is placed by the appellant on the following rulings:

- *Kalyani Transco v. Commissioner [2025 (3) TMI 1103 - CESTAT KOLKATA]*
- *Chartered Logistics Vs. Commissioner of C.Ex., Ahmedabad-II [2023 (7) TMI 883 - CESTAT Ahmedabad]*
- *Tata Power Company Ltd. v. Commissioner [2024 (10) TMI 1062 - CESTAT KOLKATA].*

3.2. Thus, in view of the above discussion and judicial pronouncements, it is the Appellant's submission that they are not liable to pay any service tax on the transportation service provided by it as the same is covered under 66D(p)(i)(A) of the Act.

3.3. Without prejudice, the appellant further submits that even if the services are considered as GTA services, no tax is payable by them. In this regard, the appellant contends that the transportation services, which were provided to M/s. Balmer Lawrie Ltd., which is a Government company, are liable to tax under Reverse Charge Mechanism. Regarding the transportation service rendered to other parties, the appellant submits that as per Notification No.

30/2012-ST dated 20.06.2012, in respect of taxable services provided or agreed to be provided by a goods transport agency in relation to transportation of goods by road, the service tax shall be paid by the person who pays or is liable to pay freight, if such person is:

(d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944

(e) any body corporate established by or under any law

(f) any partnership firm whether registered or not under any law including association of persons

3.4. It is the Appellant's plea that Balmer Lawrie Ltd. being a body corporate falls under clause (e) above and hence is liable to pay service tax under Reverse Charge Mechanism. Therefore, the Appellant submits that for services provided to Balmer Lawrie Ltd., the liability to pay service tax is on Balmer Lawrie Ltd. and not on the Appellant.

3.5. The Appellant also pointed out that the balance services are exempt as individual consignment values are below Rs. 1400/-; that the Order-in-Appeal itself records that the cash ledger submitted by the Appellant showed receipts of Rs. 750/- and Rs. 1400/- . As per Notification No. 25/2012-ST dated 20.06.2012 as amended, exemption is provided for:

*"Services provided by a goods transport agency, by way of transport in a goods carriage of—*

*(b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees"*

3.5.1. Since the individual consignment values as admitted in the Order-in-Appeal itself are Rs. 750/- and Rs. 1400/-, which are below the exemption limit of Rs. 1500/-, it is contended by the Appellant that no service tax is payable on these services; that the authorities have failed to appreciate this crucial fact that even if the services are considered as GTA services, the same are exempt from service tax.

3.6. In view of the above, the Appellant has prayed for setting aside the demands of Service Tax, along with interest and penalty, upheld in the impugned order and allowing their appeal.

4. The Ld. Authorized Representative of the Revenue has reiterated the findings in the impugned order.

5. Heard both sides and perused the appeal records.

6. In this case, it is a fact that the Appellant is a proprietorship concern with a single truck, providing transportation services without issuing consignment notes. Thus, I observe that the appellant cannot be classified as a Goods Transport Agency. Therefore, I find that the services provided by the Appellant fall squarely within the Negative List and hence the said activity is not taxable. The relevant provisions are reproduced here-in-below for ease of reference:

*"66D. The negative list shall comprise of the following services, namely: ---*

*(p) services by way of transportation of goods-*

*(i) by road except the services of-*

*(A) a goods transportation agency; or*

*(B) a courier agency;" -*

6.1. I find that services provided for transportation of goods in individual capacity fall within the ambit of negative list as provided under Section 66D of the Finance Act. In this case, the Appellant, being a small sole proprietorship concern with a single truck, providing transportation services without issuing consignment notes, cannot be classified as a GTA. Therefore, I hold that the services provided fall squarely within the negative list and are not taxable.

6.2. I also find that the Appellant has submitted that even if the services are considered as GTA services, no tax is payable by them. I find merit in the submission of the Appellant. In this case, the appellant has provided transportation services to M/s. Balmer Lawrie Ltd., which is a Government company and hence, M/s. Balmer Lawrie Ltd. are liable to pay service tax under Reverse Charge Mechanism.

6.3. Moreover, in this case, the Appellant has claimed that the balance services are exempt as individual consignment values are below Rs. 1400/-. I find that this claim of the appellant has been admitted by the Id. appellate authority in the Order-in-Appeal, wherein he has recorded that the cash ledger submitted by the Appellant showed receipts of Rs. 750/- and Rs. 1400/-. As per Notification No. 25/2012-ST dated 20.06.2012, as amended, exemption is provided for:

"Services provided by a goods transport agency, by way of transport in a goods carriage of—

(b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees"

6.3.1. Since the individual consignment values, as admitted in the Order-in-Appeal itself, are Rs. 750/- and Rs. 1400/-, which are below the exemption limit of Rs. 1500/-, I hold that no service tax is payable on these services.

7. Accordingly, I hold that the demands of service tax confirmed in the impugned order is not sustainable and hence I set aside the same. Since the demand of service tax is not sustained, the question of demanding interest or imposing penalty does not arise.

8. In view of the above discussion, I set aside the impugned order and allow the appeal, with consequential relief, if any, as per law.

(Order pronounced in the open court on **03.07.2025**)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

Sdd