

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 52270 of 2015

[Arising out of Order-in-Original No. CHD-CEX-001-COM-22-2015 dated 19.03.2015 passed by the Commissioner of Central Excise & Service Tax, Chandigarh-I]

M/s Punjab Cold Treads

GT Road, Sirhind Side, Mandi,
Gobindgarh, Punjab-147301

.....Appellant

VERSUS

**Commissioner of Central Excise
& Service Tax, Chandigarh-I**

Central Revenue Building, Plot No.-19,
Sector-17C, Chandigarh-160017

.....Respondent

APPEARANCE:

Shri Kanwaldeep Singh Gujral, Advocate for the Appellant

Ms. Amita Gupta and Shri Goverdhan Dass Bansal, Authorized

Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60771/2025

DATE OF HEARING: 02.07.2025

DATE OF DECISION: 09.07.2025

P. ANJANI KUMAR:

The issues involved in the present case are that the appellants M/s Punjab Cold Treads have been issued a show cause notice dated 12.04.2013, seeking to recover service tax of Rs.87,95,473/-, invoking extended period during the period 2007-08 to 2012-13, on the tyre retreading process the appellants undertake for their clients, under the Heading Management, Maintenance or Repair

Service as defined under Section 65 (105) (zzg) of Finance Act, 1994; the proposals in the show cause notice were confirmed along with equal penalty vide the impugned order dated 23.03.2015. Hence, this appeal.

2. Shri Kanwaldeep Singh Gujral, learned Counsel for the appellants submits that there was a general confusion in the industry as to whether the retreading of tyres amounted to manufacture or service; retreaded or used pneumatic tyres of rubber solid or cushion tyres, tyres treads and tyres flaps of rubber finds an entry in the Central Excise Tariff, 1985 prescribing NIL rate of duty; with effect from 01.07.2003, an entry, related to maintenance or repair including re-conditioning or restoration or servicing of any goods, excluding a motor vehicle, was introduced in the Service Tax Law. The appellants requested the Department vide Letter dated 19.09.2006 to issue suitable clarification; the said letter was never replied. Meanwhile, appellant received a letter dated 20.12.2012 asking them get themselves registered and to pay service tax in view of the clarification given by CBEC vide Circular dated 27.02.2012; the appellants immediately got themselves registered and started paying duty; the present proceedings were initiated for the period prior to 2012, invoking extended period.

3. Learned Counsel for the appellants submits that there was a general confusion in the industry and the Department also as to whether the activity undertaken by the appellants amounted to manufacture or service; the said confusion was cleared by the decision of the Hon'ble Apex Court in the case of M/s Ahmedabad

Electricity Company; accordingly, CBEC issued a Circular No.137/125/2011-ST dated 27.02.2012 clarifying that the activity amounts to provision of taxable service. He submits that the appellants have requested the Department for clarification vide their letter dated 19.09.2006; there was a general confusion and the CBEC had to issue a Circular; the appellants received a letter dated 20.12.2012 asking them to pay service tax; the appellants have promptly registered themselves and started paying service tax; under the circumstances, extended period cannot be invoked as no ingredient to do so are present in the instant case. He further submits that learned Commissioner has dismissed their plea on bona fide intent based on their letter dated 19.09.2006 for the reason that the original copy of the letter is not readily available with the Department. He submits that they cannot be held responsible for the reason that the letter is not available with the Department; extended period cannot be invoked. He relies on the following cases:

- Dophine Detective Agency v/s Commr of C EX Bangalore. Reported as 2006 (4) S.T.R. 25 Tri- BANG)
- Commr. of S.T. Bangalore v/s Karnataka State Warehousing Corpn. Reported as 2011(23) S.T.R.126 (Kar)
- Shreehari Associates (P) Ltd v/s Commr. of Central Excise Aurangabad reported as 2015-TIOL-595-CESTAT-MUM
- Commr. of C. EX. Nagpur v/s Maharashtra State Seed Certification Agency. Reported as 2019(27) G.S.T.L. 678 (Bom)

4. Learned Authorized Representative for the Department reiterates the findings of the impugned order.

5. Heard both sides and perused the records of the case. We find that the appellant argues on the limitation. Their contention is that there was no clarity on the issue and the confusion was cleared only after the judgment of the Hon'ble Supreme Court in the case of Ahmedabad Electricity Co. – 2003-TIOL-17-SC-CX; CBEC has also issued a Circular dated 27.02.2012. The entry in the Central Excise Tariff with a NIL rate of duty and simultaneous introduction of the entry in the Service Tax Law w.e.f. 2003 is certainly a basis for the confusion, which was cleared by the CBEC in February 2012. Therefore, when the Department itself needed 09 years to clarify the issue after the entry was made in 2003 and the Deputy Commissioner has issued a letter to the appellants in December 2012, a clear 10 months after the issue of circular, the bona fides of the appellants cannot be suspected. Moreover, the appellant on his own sought a clarification vide letter dated 19.09.2006 which was never replied. Dismissing the submissions of the appellants, on the basis of this letter, for the reason that the said letter is not available in the official records is bad in law. We find that the learned Counsel for the appellants could demonstrate the official receipt of the letter. Revenue has sat over the letter for 06 long years and proceeded to invoke extended period. We find that the same is not tenable. On the other hand, Department could not produce any evidence to substantiate the allegation of fraud, suppression, collusion, mis-declaration etc. with intent to evade payment of duty so as to invoke extended period. Under these circumstances, we find that the

appellants have demonstrated the bona fide reasons for not discharging service tax during the impugned period. Therefore, we are of the considered opinion that Revenue has not made out any case for invocation of extended period and the facts and circumstances of the case do not warrant the same either. We find support in the following cases:

- Pepsico India Holdings Pvt. Ltd. v. Commissioner of CGST, Panchkula, Final Order No. 60489/2025 dated 22.04.2025 (Tri.-Chan.)
- Mahanagar Telephone Nigam Ltd. v. Union of India and Ors., 2023-TIOL-407-HC-DEL-ST
- M/s GD Goenka Private Limited v. Commissioner of Central Goods and Services Tax, Delhi South, 2023-TIOL-782-CESTAT-DEL
- Delhi Airport Metro Express Pvt. Ltd. v. Commissioner of Central Excise & Customs, Final Order No. 50031/2024 dated 11.01.2024 (Tri.-Del.)
- Mahesh Chemicals Allied Industries and Suresh Goyal v. Commissioner of Central Excise and Central Goods & Service Tax, Rohtak, 2024-TIOL-1120-CESTAT-CHD

6. In view of the above, the appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in the open court on 09/07/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)