

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

REGIONAL BENCH - COURT No.I

Service Tax Appeal No.70818 of 2025

(Arising out of Order-in-Appeal No.23-ST-APPL-ALLD-2025 dated 06/01/2025
passed by Commissioner (Appeals) Central Excise & Service Tax, Allahabad)

M/s Vinyl Tech,

.....Appellant

(Proprietor: Shri Jitendra Singh Chauhan
2-A-2, GT Road, Lakhanpur, Kanpur-208024)

VERSUS

Commissioner, CGST & Central Excise, Kanpur

....Respondent

(Kanpur)

APPEARANCE:

Shri Prakhar Shukla, Advocate for the Appellant
Ms. Chitra Srivastava, Authorised Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. -70132/2026

DATE OF HEARING : 06.02.2026
DATE OF DECISION : 08.05.2026

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the impugned Order-In-Appeal passed by the learned Commissioner (Appeals), CGST & Central Excise, Allahabad.

2. Briefly stated, the facts of the case are that the Appellant M/s Vinyl Tech is a proprietary concern of Shri Jitendra Singh Chauhan and is registered with the Service Tax Department under the category of 'Construction Service other than Residential Complex including Commercial Industrial Building' which is

covered under the service other than Negative List effective from 01.07.2012.

3. On the basis of the third-party information, it was gathered that the assessee has provided taxable services but did not discharge the Service Tax liability properly. Accordingly, letters and reminders were issued to which the Assessee complied. However, a Show Cause Notice ¹dated 22.10.2021 was issued proposing to demand Service Tax amounting to Rs.4,77,120/- along with applicable interest and for imposition of penalties under the various Sections. Reply to the SCN was filed. It is the case of the Appellant-Assessee that during the period under dispute being Financial Year 2016-17, the gross-receipts in the Trading & Profit and Loss account has been bifurcated as under:-

Sr.No.	Items	Amount
1	Sales	Rs.1,45,500/-
2	Works Contract	Rs.18,86,118/-
3	Job Works	Rs.22,78,997/-

4. The learned Advocate appearing on behalf of the Appellant made the Bench go through the Financial Statements at annexure 7 (Page No.90 of the Appeal Paper Book) wherein a detailed chart of job work is prepared showing the taxable value of Rs.2,78,997/- and the Service Tax liability has been computed at Rs.3,08,819/-. Out of the above Service Tax liability, it is submitted that an amount of Rs.3,04,316/- has already been deposited which has been considered in Para 4 of the SCN. The balance amount of Rs.4,502/- along with interest of Rs.6,309/- totalling Rs.10,811/- has been deposited on 06.02.2026. E-Receipt of the same has been filed along with written submissions.

5. Regarding the amount received towards providing of 'Works Contract Service', it is submitted that the same have been provided to various service recipients as under:-

¹ SCN

Particulars	Amount
Work Contract provided to M/s IIT Kanpur	1,014,206.00
Work Contract provided to M/s ITI Limited, Raebareli	854,333.00
Work Contract provided to M/s Power Grid	17,579.00
	1,886,118.00

6. It is further submitted that since the above services have been provided to Government entities the same is exempted under Entry No.12 of Mega Exemption Notification No.25/2012-ST dated 20.06.2012.

7. Regarding the demand for the Financial Year 2017-18 (upto June 2017) the learned Advocate has made the following submissions:-

- The Revenue in Para 16 of Order-In-Original dated 19.02.2024 has confirmed demand on the sole allegation that no explanation has been submitted for the remaining amount of Rs. 10,96,418 and no supporting documents have been provided with respect to the same.
- In this regard, it is respectfully submitted that such amount of Rs. 10,96,418/- pertains to 4 invoices of sale of goods, which were mistakenly reported in the ST-3 returns by the accountant of the Appellant firm.
- Since such invoices pertain to trading of goods, the same would be a part of the Negative list under Section 66D(e) of Finance Act, 1994 and service tax will not be applicable on the same. The relevant extract of Section 66D(e) of Finance Act, 1994 is reproduced hereunder for your perusal-

"SECTION 66D. Negative list of services.-

The negative list shall comprise of the following services, namely -

(e) trading of goods;"

- *Further, in this regard, copies of such invoices are enclosed herewith as 'Annexure-2' for the perusal of this Hon'ble Bench.*

- Thus, the remaining amount of Rs. 10,96,418/- pertains to 4 invoices of sale of goods which are outside the purview of Service tax regime and the demand confirmed on the same is illegal and unsustainable.

8. The learned Departmental Representative has justified the impugned order and prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

9. Heard both the sides and perused the appeal records.

10. I find that the Appellant has filed the copy of the Financial Statements for the Financial Year 2016-17 wherein, in the Trading and Profit & Loss Account, the gross receipts have been bifurcated under various heads viz. Sales, works contract and job work. Job work has been provided to M/s Hindustan Unilever Ltd. for providing insulation work/PVC flooring etc. The gross amount received is Rs.22,78,997/- and the applicable Service Tax has been deposited by the Appellant-Assessee. Further, regarding the 'Works Contract Service', it is observed that the 'Works Contract Service' have been provided to M/s IIT Kanpur, M/s ITI Ltd., Raebareli & M/s Power Grid Corporation of India.

11. All the above three service recipients are government entities and accordingly the service provider is not required to collect any Service Tax and in fact he has not collected any Service Tax from the service recipients. Similarly, for the Financial Year 2017-18 (up to June 2017), the figure is of sale of goods and invoices have been submitted showing charging of VAT & SAT in the above invoices. Hence, no liability of Service Tax can be fastened on the Appellant-Assessee in respect of these invoices.

12. I find that the entire demand is based on difference in ST-3 Return and Income Tax Return and that the demand is raised without examination of the Books of Accounts and therefore, the said demand is bad in law.

13. The learned Advocate for the Appellant has submitted that there should have been examination of the records and the nature of assessments and Revenue should have established that the said transactions were in respect of provision of service.

14. I find that the demand was raised invoking the provisions of Sub-Section 2 of Section 73 of the Finance Act, 1994 read with [Section 174 of the CGST Act, 2017](#). The said provision of the Finance Act empowers the Revenue for recovery of Service Tax after considering the representation, if any, made by the person on whom notice is served under Sub-Section 1. Therefore, the first step for Revenue is to establish that a specific amount to be demanded through SCN by invoking the said provision is service tax either not paid or short paid or not levied or short levied. Therefore, it is essential to establish that the value on which such service tax is calculated is the value under Section 67 and the same is derived from the consideration received by the Appellant out of the activity which has to satisfy definition of service under sub-section (44) of Section 65B of Finance Act, 1994. Such type of examination of the facts and arriving at the *prima facie* view that the Appellant had received the consideration by providing service is missing in the SCN. I, therefore, hold that the said SCN is not sustainable in law.

15. In view of the above discussion the impugned order is set aside and the appeal filed by the Appellant is allowed with consequential relief, if any, as per law.

(Pronounced in open court on 08.05.2026)

Sd/-
(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

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