

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**New Delhi**

PRINCIPAL BENCH – COURT NO.3

**Service Tax Appeal No. 53503 Of 2018**

[Arising out of Order-in-Appeal No. 313 (CKJ) ST/UDR/2018 dated 28.06.2018 passed by the Commissioner (Appeals) of Central Excise, Goods and Service Tax, Udaipur]

**M/s Panwar Builders**

B-22, Nar Singh Vihar,  
Lal Sagar, Mandore, Jodhpur

**: Appellant**

Vs

**Commissioner of Central Goods, Service Tax, Central Excise, Udaipur** : **Respondent**

142-B, Hiran Magri, Sector 11, Udaipur

**APPEARANCE:**

None for the Appellant

Shri Anand Narayan, Authorized Representative for the Respondent

**CORAM :**

**HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)**

**HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)**

**FINAL ORDER No.50690/2025**

Date of Hearing:02.04.2025

Date of Decision:16.05.2025

**HEMAMBIKA R. PRIYA**

The present appeal arises out of Order-in-Appeal No. 313(CKJ)ST/UDR/2018 dated 28.6.2018 passed by the Commissioner (Appeals), wherein the Commissioner (Appeals) upheld the Order-in-Original No. 23/2017-ST dated 30.01.2017 confirming the demand of Rs. 31,19,937/- under Section 73 of the Finance Act, 1994 along with interest under Section 75 of the Finance Act, 1994 and also imposed a penalty of Rs. 10,000/- under section 77(1)(a) and Rs. 10,000/- under section 77(2) and penalty of

Rs. 31,19,937/-under the provisions of Section 78 of the Finance Act, 1994.

2. The brief facts of the case are that the appellants during the period from 16.06.2009 to 13.03.2012 were engaged in providing "Construction of Residential Complex service services to various builders and developers, Jodhpur. Intelligence was received that the appellant was not paying service tax on the taxable services provided by them. During the course of investigations, Shri Jitendra Panwar appeared before the Superintendent(AE), Central Excise Division, Jodhpur and stated that there company is operating since 2011 and undertaking the said work on Labour Rate contract basis. He stated that they had worked for M/s Manav Developers only and submitted a copy of the agreement. Thereafter, summon dated 21.02.2012 was issued to Shri Magraj Panwar, father of Shri Jitendra Panwar who was the actual proprietor of the company. Shri Magraj Panwar in his statement dated 19.03.2012 stated that the amount received by them for providing construction services during the period 2006-07 to 2008-09 was covered within the exemption threshold. On completion of investigations, the department issued Show Cause dated 14.10.2014 demanding service tax of Rs.31,19,937/-under Section 73(1) of the Finance Act, 1994 along with interest under section 75 and proposing penalty under Section 77 and 78 of the Finance Act, 1994. The Assistant Commissioner decided the matter ex-parte and issued the Order-in-Original No. 23/2017-ST dated 30.01.2017 confirming demand of Rs.31,19,937/- along with interest under Section 75 and penalty under section 77

and 78 of the Finance Act, 1994. Thereafter, the Commissioner (Appeals) also passed the impugned order dated 28.06.2018. Being aggrieved by the said Order-in-Appeal dated 28.06.2018, the present appeal has been filed.

3. None has appeared on behalf of the appellant. Hence, we are considering the submissions made in the Appeal memo.

4. Learned Authorized Representative for the Department submitted that the appellant was providing services to M/s Ramdev Developers, Manav Developers and various Developers as a contractor of construction of buildings and they have received consideration Rs. 3,02,90,638/- as per then Bank statement for the years 2009-10 to 2011-12 on which the service tax liability comes to Rs. 31,19,937/- (including cess) which was not paid. The appellant had merely deposited service tax of Rs. 1,91,889/-. He submitted that the adjudicating authority has observed that the appellant had been engaged in construction work of various developers and builders by undertaking the work on Labour Rate Contract basis as is evident from the copy of agreement between the appellant and M/s Manav Developers and the statements of Shri Jitender Pawar dated 07.10.2011 as well as Magraj Pawar dated 19.03.2012. Learned authorised representative stated that the adjudicating authority has observed that though services provided by the appellant was contract work, but as it did not involve any material, hence no abatement was available to the appellant.

5. We have heard the learned authorised representative for the department. We take note of the fact that the appellant did not appear for any of the personal hearings before the original adjudicating authority and the Commissioner (Appeals) either. The appellant did not appear before the Tribunal as well. Vide the daily order dated 11.10.2024, the appellant was warned that the case would be decided on merits if the appellant or his representative did not appear. Hence, when the case was called out on 02.04.2025, no one appeared for hearing. We, therefore, proceed to decide the matter based on the records.

6. The admitted facts of the present case are as follows: -

- (i) The appellant was a contractor providing labour services to builders
- (ii) The appellant had provided the above services to M/s Manav Developers & Shree Ramdev Developers, Jodhpur.
- (iii) Such service was provided during the period 15.6.2009 to 13.3.2012.
- (iv) Service Tax registration was taken on 05.10.2011
- (v) The appellant filed Nil VAT returns for the years 2009-10 & 2010-11.

7. We note that the investigations were launched by the Department that the appellant was providing services to certain developers based in Jodhpur but had not taken service tax registration and not paid service tax. In his statement dated 7.10.2011, Sh Jitendra Panwar, Proprietor claimed that they were undertaking labour rate contract with M/s Manav Developers since

2011. He submitted that they had taken service tax registration on 05.10.2011. He also submitted that no bank account was opened by them and they did not have IT returns and Balance Sheet was the past five years. However, we note that Shri Magraj Panwar in his statement dated 19.3.2012 claimed to be the Proprietor, and stated that he had provided construction work of building services by employing labour during the period 2006-07 to 2008-09. Further investigations with the Bank revealed that the appellant had received Rs 3,02,90,638/- during the period 2009-2012 and no satisfactory explanation was offered by the appellant. In this context, we note that the appellant in his grounds of appeal has not submitted any evidence or satisfactory explanation towards the amount so received.

8. We also note that the department had examined the agreement between the appellant and M/s Manav Builders and arrived at the conclusion that the appellant had not provided material along with the labour service. This is substantiated by the Nil VAT returns filed by the appellant. Consequently, the appellant was not eligible to any abatement from the gross amount received for the services rendered by them. Once again, we note that no evidence has been produced before us in support of the appellant's contention.

9. As regards the ground taken before the Tribunal that they did not receive the relied upon documents along with the show cause notice, we find that the Commissioner (Appeals) in the impugned order has held that the copies of the statements of Sh Jitendra Panwar and Sh Magraj Panwar, which were RuDs was submitted by

the appellant along with the appeal. The other RuDs were copies of the VAT returns, Service Tax deposit challan and Bank statements submitted by the appellant himself to the department. Hence, this plea cannot be accepted.

10. In view of the discussions above, we find no infirmity in the impugned order. The appeal is accordingly dismissed.

(Order pronounced in the open Court on 16.05.2025)

**(BINU TAMTA)**  
MEMBER (JUDICIAL)

**(HEMAMBIKA R. PRIYA)**  
MEMBER (TECHNICAL)

G.Y.