06
28.04.2026
sayandeep
Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16625 of 2025

M/s Blue Bell Enterprise
Versus
UOI & Ors.

Mr. Banshari Bhusan Sarker
Ms. Iti Dutta
Mr. Pratit Sarkar
... For the petitioner
Mr. Uday Sankar Bhattacharya
Ms. Ekta Sinha
Ms. Banani Bhattacharya
.... For the CGST authority

1. The petitioner's claim revolves around its entitlement to the benefit under the exemption notification dated 20th June, 2012. The petitioner claims to have executed certain contract pertaining to the scheme under the Jawaharlal Nehru Urban Renewal Mission (in short JNURM) as also contracts for construction of certain civil structures under the Government.
2. Subsequently, a show-cause was issued on 26th December, 2020. The petitioner claims to have responded to the show cause and had held out that the petitioner is entitled to the benefit of the exemption notification. When the matter was taken up for consideration on 22nd April, 2026, since it was submitted on behalf of the petitioner inasmuch as the adjudication order was not served, the petitioner could not disclose the same, this Court had directed

the respondents to produce the adjudication order. Pursuant to the aforesaid direction Mr. Bhattacharya has produced the adjudication order and the dispatch register for postal Dak. He submits that the adjudication order in original dated 31st December, 2021 was duly served on the petitioner by speed-post.

3. Having regard to the aforesaid disclosure, this Court has considered the adjudication order on merits. As would appear form the aforesaid order and as pointed out by the learned advocate appearing for the petitioner, the petitioner had duly raised the issue as regards the petitioner's entitlement to the benefit of the exemption notification dated 20th June, 2020. In order to appreciate the petitioner's contention, the relevant portion of the notification which permits the petitioner to seek exemption as has been disclosed, is extracted herein below:

> *"GSR…(E). In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012-Service Tax, dated the 17th March. 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1) vide number G.S.R. 210 (E), dated the March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 6511 of the said Act, namely*
>
> 1. *Services provided to the United Nations or a specified international organization;*
> 2. *Health care services by a clinical establishment, an authorised medical practitioner or para-medics;*
> 3. *Services by a veterinary clinic in relation to health care of animals or birds:*

4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities,

5. Services by a person by way of

(a) renting of precincts of a religious place meant for general public, or

(b) conduct of any religious ceremony;

6. Services provided by-

(a) an arbitral tribunal to-

(i) any person other than a business entity; or

(ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year;

(b) an individual as an advocate or a partnership firm of advocates by way of legal services to,-……………..

(e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme;

12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of-

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

(d) canal, dam or other irrigation works;

(e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;

13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance. renovation, or alteration of,-

(a) road, bridge, tunnel, or terminal for road transportation for use by general public;

(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;

> *(c) a building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;*
> *(d) a pollution control or effluent treatment plant, except located as a part of a factory; or a structure meant for funeral, burial or cremation of deceased;"*

4. I find that the aforesaid issue has been discussed by the proper officer. The proper officer, however, despite acknowledging that the petitioner may be entitled to the benefit of the above exemption has refused to grant the benefit of the exemption to the petitioner for the failure on the part of the petitioner to file ST returns for the financial year 2015-2016, as well as for the failure on the part of the petitioner to connect the money received by the petitioner with the relevant work orders. Upon going through the aforesaid order, it would transpire that the proper officer has in fact by noting that the petitioner had failed to establish that the petitioner is entitled to seek exemption has returned the above findings.
5. Record would, however, reveal that the petitioner was repeatedly issued reminders to comply with the direction for making payment of tax in terms of the adjudication order/order-in-original dated 31st December, 2021. Although, the petitioner appears to have responded, the petitioner had only contended that petitioner was entitled to exemption, nothing had been indicated nor there is any statement by the petitioner as to whether the petitioner had been served with the order-in-original.

6. Ordinarily, having regard to the above, I would not have interfered with the above order but for the fact that in respect of the petitioner concerning a separate adjudication proceedings for the tax period of April, 2016 to March, 2017 a proceedings had been initiated, the said proceedings had, however, culminated in the adjudication order dated 4th April, 2024 which has also been disclosed. In such case as well the petitioner had failed to file the ST 3 returns. Notwithstanding the aforesaid, on the basis of the enquiry conducted by the adjudicating officer, a finding was returned that the petitioner was entitled to exemption in respect of the payment received from the governmental authorities and the demand to that extend stood dropped. Although, considering the adjudication order which is impugned, I do not find that the petitioner had made appropriate disclosure but the fact that the exemption was applicable to the petitioner is not in dispute. Though, there appears to no specific denial of the petitioner as regards receipt of the adjudication order contemporaneously, however, noting the submissions made by the petitioner's advocate and the disclosure made by the respondents that the order impugned was dispatched by speed post without the respondents being able to prove such service in terms of the Section 37(c) of the Central Excise Act, 1944 which mandates service of the order by speed post with proof of delivery and

noting that Section 83 of the Finance Act, 1994 read with Section 34(c) of the Central Excise Act, 1944 provides the manner in which service of any decision or orders or summons etc. under the Finance Act, 1994 are to be made, I am of the view that in the peculiar facts, benefit of doubts should be given to the petitioner subject to however, the petitioner making payment of cost of Rs. 25,000/- to be paid to the respondents within two weeks from date. In the event, the aforesaid payment as directed is made, by treating the service of the order in original dated 31st December, 2021 to the petitioner in Court today, I grant liberty to the petitioner to prefer an appeal from the above order in accordance with law if so advised. If an appeal is preferred therefrom, the petitioner shall be at liberty to disclose additional documents to establish the payments received from governmental authorities to seek the benefit of exemption notification dated 20th June, 2012 in accordance with law.

7. It is made clear that this Court has not entered into the merits and the observations are herein are only tentative. If an appeal is filed, the appellate authority shall adjudicate the same without being influenced by any of the observations made herein.
8. Since, no affidavit has been called for, the allegations made in the petition are deemed not to have been admitted by the respondents.

9. In the light of the above, the attachment of the petitioner's bank account by issuance of notice under Section 87 of the Finance Act, 1994 dated 26th February, 2025 shall stand quashed.
10. It is made clear if the petitioner does not prefer an appeal within the statutory period by treating the order in original to have been served on the petitioner on 20th April, 2026, the respondent shall be at liberty to initiate such steps in accordance with law as may be advised for realisation of its demand.
11. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)