

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

REGIONAL BENCH, COURT NO. 2

**SERVICE TAX APPEAL NO. 10526, 10558-10559, 10891-10895 OF
2016**

AXAR ENTERPRISE & Ors.

Appellant

Vs.

**COMMISSIONER OF CGST & CENTRAL EXCISE-
CGST & CENTRAL EXCISE DAMAN**

Respondent

Appearance:

Present for the Appellant : Shri Anandodaya Mishra, Advocate

Present for the Respondent: Shri P Ganesan, Superintendent (AR)

CORAM:

HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

Date of Hearing : **13/01/2026**

ORDER

The learned Counsel for the appellant is present. The learned Authorised Representative for the department is also present. I have heard the arguments from both the sides.

2. The learned Counsel for the appellant submitted that investigation was conducted in this matter and it was found by the department that the appellant had short paid service tax to the tune of Rs. 4,40,791/-. The appellant discharged total outstanding amount of service tax along with interest and penalty by paying amount of service tax of 4,40,791/- along with interest of Rs. 58,779/- and penalty of Rs. 47,490/-. They requested for closer of investigation and to avoid issuance of show cause notice thereupon the department closed the investigation under Section 73 (4A) of the Finance Act, 1994. The application for VCES (Voluntary Compliance Encouragement Scheme) was submitted by the appellant but the department issued Show Cause Notice to him and thereafter passed the impugned order dated 14th December, 2015 in which the VCES declaration dated 28th December, 2013

filed by the appellant was rejected and the demand of Service Tax was confirmed upon the appellants and penalty was also imposed upon them.

2.1 The learned Counsel for the appellant submitted that the impugned order has been passed in violation of the Circular No. 170/5/2013-ST dated 08.08.2013 and 174/92013-ST dated 25/11/2013. In para 2 at sr. no. 12, it has been mentioned that the designated authority, if declaration is covered by Section 106(2) shall give a notice of intension to reject the declaration within 3 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. If declaration has been already filed, the said period of 30 days would apply from the date of this Circular.

2.2 Learned Counsel for the appellant submitted that the show cause notice was issued after about one year from the date of submission of VCES application. Therefore, it is barred by time and it could not have been given effect and it cannot be presumed that any information was suppressed with the intention to evade the payment of tax. Therefore, extended period could not have been invoked by the department.

3. The learned Authorised Representative for the department has reiterated the impugned order and submitted that the impugned order has been rightly passed by the learned Commissioner.

4. After hearing both the sides, the order is reserved.

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)