**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/TAX APPEAL NO. 699 of 2025**

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CCE AND ST NOW PRINCIPAL COMMISSIONER, CENTRAL GST AND CENTRAL EXCISE, VADODARA-I
Versus
M/S DELOITTE HASKINS AND SELLS CHARTERED ACCOUNTANTS LLP
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Appearance:
MAUNIL G YAJNIK(9346) for the Appellant(s) No. 1
MS AMRITA M THAKORE(3208) for the Opponent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

**Date : 18/06/2026**
**ORAL ORDER**

**(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

1. Heard learned Senior Standing Counsel Mr. Maunil Yajnik for the appellant and learned advocate Ms. Amrita Thakore for the opponent.

2. This Appeal is filed under Section 35G of the Central Excise Act, 1944, by the Revenue proposing the following substantial questions of law arising out of the order dated 31.01.2024 passed by

the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench at Ahmedabad [for short 'the CESTAT'] in Service Tax Appeal No. 10437 of 2016-DB:

> "(i) Whether the Hon'ble CESTAT is correct in treating the advance payment as negative (-ve) Debtors and hold not leviable to service tax, though the said payment was actually an advance payment as held by Audit report?
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> (ii) Whether the Hon'ble CESTAT is correct in holding that the demand is not sustainable without considering that the Respondent, in case of some of entries showing the negative balance has agreed with the objection and paid the tax, interest and penalty and in respect of other entries did not agree as this fact has been clearly brought out by the adjudicating authority in his findings?

(iii) Whether the CESTAT is correct in holding that all amount has suffered tax without examining the records and evidence?

(iv) Whether Order of CESTAT recording wrong facts, data and not discussing, examining the evidence amounts to perversity or not?

(v) Whether the CESTAT is right in ignoring standard and recognized accounting practice and accept the peculiar accounting System?

(vi) Whether the Hon'ble CESTAT is correct without looking in to the fact that Respondent being a Chartered Accountant of international repute and professionally well conversant with the accounting procedures, would show the amount payable to their creditors (or expenses as claimed) into debtors account ?

(vii) Whether the Hon'ble CESTAT is correct in allowing the appeal by relying on the statement of authorized person who claimed that the amount shown in the negative is actually the amount payable to their networking firms for the services provided and that they had availed Cenvat Credit on the same, and thereby holding that the amount has already suffered tax without actual verification of this fact? Whereas the fact is that that the Respondent did not produce any documentary evidence like invoices, credit/debit notes to support their claim before adjudicating authority.

(viii) Whether the Hon'ble CESTAT is correct in allowing the appeal even though there are contradictory facts and inconsistencies in the amounts presented by the Respondent before the adjudicating authority?

(ix) Whether the Hon'ble CESTAT is correct in holding that the demand is not sustainable instead of remanding back in view of the fact that the CESTAT has passed the order in a haphazard manner without verification of the evidence as discussed in para (iii) and (iv) above?

(x) Whether the Hon'ble CESTAT is correct in holding that the demand is not sustainable on the ground of limitation even after the very fact that Respondent being a Chartered Accountant of international repute and well conversant with the has no accounting system and principles, bonafide reason to show the amount payable to their creditors in to their debtors account and this being well coordinated effort to suppress the fact of receipt of payments from the notice of the auditing or any inspection agency?”

3. The respondent-assessee provides Chartered Accountant services and is registered with the Service Tax Commissionerate. During the audit accounts of the assessee for the Year 2015-16 such as ST-3 returns, balance sheet, list of outstanding debtors etc., it was found by the audit party that the assessee had shown certain amounts as negative balance (i.e. negative debtors) for the period from 25.09.2007 to 31.03.2012.

4. Upon further inquiry, it was found that such payments were in nature of advance payments received from their customers or the debit notes issued by the customers for the reciprocal services provided. In the normal course of accounting, the amount received from their debtors should have been shown separately in the balance

sheet; either as advance or an amount payable for the services rendered by such debtors to the assessee in order to determine the tax liability. Considering such entries in the debtors’ accounts, a show-cause notice was issued on 28.08.2014 for levy of service tax on such negative entries in the debtors’ accounts found by the audit party for the period from October 2008 to March 2012 proposing a demand short-paid service tax along with interest and the imposition of penalty.

5. The assessee filed reply to the show cause notice contending *inter alia* that the negative entries shown in the debtors’ accounts pertained to the expenses charged by the network firms of the assessee for the services provided by them. It was

contended that there were two-way services with the network firms; services were provided by the assessee and also the services were received by the assessee in return. As per the accounting practice adopted by the assessee, amount owed by the network firms to the assessee for services provided are shown as debts under those debtors and the amount which the assessee owed to the network firms for services provided by them are shown as negative items under the debtors, thereby adjusting liability against the outstanding debt to be received by the assessee in nature of current account.

6. It is the case of the assessee that the Adjudicating Authority, without considering the facts and the documentary

evidence placed on record by the assessee, added the total of all the negative figures appended in Annexure-D to the audit report.

7. Being aggrieved, the assessee preferred an appeal before the CESTAT. The CESTAT, after considering the facts of the case and analysis of the Annexure-D which is relied upon for raising the demand by the Adjudicating Authority, set aside the Order-in-Original by observing as under:

> “From the above table it can be seen that the appellant has shown the amounts as outstanding with the negative marking. In the accounts maintained by appellant these figures are accounted under the head 'debtors'. Although the department alleges that these are advances received from their client and Service Tax has not been discharged on these amounts, the SCN does not mention any details as to the transactions of receiving such

alleged advance payments. The impugned order also does not mention about the details of the alleged advances which has escaped tax. If the department alleges that these amounts are received from clients and suppressed by the appellant, then the department had to give the date & receipt of advance, the services for which such advance received, the clients from whom such advance was received documents for payment of advance to appellant etc. There is no evidence put forth by department in this regard except for the allegation that appellant received advance payments and did not discharge Service Tax on such advances.

5.3 The appellant has explained that prior to 2011 when the Service Tax was payable on receipt basis they adopted an accounting system by which the amount to be paid by appellant to their network firms for services provided to appellant was shown as negative figures under the head 'Debtors'. This is because, the amount to be paid by network firms to the appellant was shown as debts under the head 'Debtors'. This helped adjusting the liabilities of the appellant against debts.

Appellant----→Network firms[Debtors]
Network firms---→ Appellant [Debtors]

5.4 The appellant maintained a current account with the network firms and by issue of debit notes they were able to make adjustments of the amount to the paid and to be received by them in respect of network firms. It is seen that the network firms have raised invoices on the appellant collecting the Service Tax from the appellant. For the payments along with Service Tax made to network firms the appellant has availed credit of such Service Tax as input service and there is no dispute in this regard.

5.5 The statement of Shri Yogesh G. Shah partner of the appellant was recorded on 14.08.2014. It is stated by him as answer to question no.12 that whenever an advance is taken, an invoice is raised on the client collecting the Service Tax. To the question no. 28 'why figures showing as in bracket in the list of outstanding debtors as on 31.03.2012?' the said partner has replied as under:

> "In reference to our letter dated 03.04.2014, we have already provided the rationale for the figures showing in brackets for an amount aggregating to Rs. 36.33 crores out of the total amount of

Annexure-D aggregative to Rs.39.66 crores. We are submitting the same letter again for your kind reference. It can be seen from the information provided along with letter that the amount shown as negative in brackets in the report is actually the amount payable by us to our associate concerns/networking firm with whom we maintain current account. It may additionally be brought to your notice that on all invoices produced with letter, Cenvat Credit was availed during the respective period and which was subject to audit. In the audit no specific observation disallowing these credits was raised and hence it can be construed that department has allowed us the credit on these invoices wherein we are availed the services from out associate concerns. The Cenvat ledger for the period January, 2011 to March, 2011 is being provided for your verification, which is in consonance with the letter submitted on April 03, 2014. We may add that this letter was submitted to highlight and clarify major items of negative balances such as debit notes for rendering of services, recovery of expenses and others which we can substantiate as and when required."

5.6 From the above it is clear that appellant has availed Cenvat Credit of the Service Tax collected from them by network firms. This means the net work firms have collected Service Tax from appellant and discharged their liability. The department has no dispute on the Cenvat Credit availed by appellant in this regard. So also there is no dispute that appellant has not discharged Service Tax on the payments received for providing services. The allegation is that they did not discharge Service Tax on advance payments. As already stated, there is no evidence of any transactions of receiving advance payment which has escaped payment of tax. The accounting of amount under the head negative debtors is assumed by department as advance payments.

5.7 The appellant has explained the reason for accounting under the head 'debtors' and 'negative debtors'. Though we may say that this is not a normal practice of accounting, we have to say that since all these amounts have suffered tax, there is no situation of revenue loss. The department has not been able to correctly establish the basis of demand and has raised the demand on a suspicion of the accounting done under the head Debtors with negative marking. We therefore find that the demand cannot sustain. The issue on merit is answered in favor of appellant.

5.8 The Ld. Counsel has argued on the grounds of limitation also. It is seen that the demand has been raised pursuant to audit verification. The audit report dated 17.02.2014 at para 8 shows the objection raised by the audit team of non payment of Service Tax due to the peculiar accounting system of the appellant. The appellant has issued series of reply, explaining why they happened to show 'debtors' as negative balance. The SCN dated 28.08.2014 is issued for the period from 10/2008 to 3/2012. It is seen that prior to this an audit for the period April 2004 to March 2010 was conducted. The final audit report for this period has not objected to the accounting system or raised an query in this regard. This audit was conducted on 09.03.2011 and 11.03.2011. Later, for the period 2010-2011 audit was conducted on 30.01.2012, 31.01.2012 and 07.02.2012. The final audit report for this period also does not raise any objection as to the accounting method adopted by the appellant. Much later, after audit report dated 13.02.2014, this SCN has been issued

> alleging suppression of facts. All the transaction and figures are mentioned by appellant in the accounts and financial statements. As already stated, apart from vaguely alleging that appellant received advance payments on which Service Tax is alleged to be not paid, there is no evidence adduced by department as to what are the details of transactions of such advance payments. We find that department has failed to establish any positive act of suppression on the part of the appellant. The demand raised invoking the extended period is therefore not sustainable. The appellant succeeds on the issue of limitation also."

8. On perusal of the paper-book containing documents submitted before the CESTAT, it appears that the assessee had submitted sample copies of the debit notes received from its network debtors before the Adjudicating Authority along with a covering letter on 04.04.2014. However, the Adjudicating Authority ignored the same and raised the demand based upon the

negative entries in the debtors' accounts on the ground that the same would be liable for the levy of service tax as the assessee has not paid service tax on the services received by it.

9. On perusal of the sample debit notes, it was also found by the CESTAT that the network firms have already charged service tax @10% on the services provided by them to the assessee and the service tax liability has been duly discharged by the service provider.

10. In view of the above findings of fact recorded by the CESTAT and considering the provisions of section 66 of the Finance Act, 1994, which existed at the relevant point of time prior to 2011, the service

tax is to be levied at the rate of 12% on the value of the taxable services referred to in the sub-clauses mentioned therein.

11. The provisions of section 67 of the Finance Act, 1994, provide for valuation of the taxable services for charging service tax. None of the ingredients for charging service tax are applicable to the advance payments or the amounts as per the debit notes for the services provided to the assessee by its debtors are liable for service tax under the said provision. It is also pertinent to note that whenever the assessee received an advance payment, and it was found during the course of the audit proceedings that the service tax was liable to be paid on such advance payment, the assessee had already discharged such

liability along with interest as recorded in paragraph 7 of the audit report by the audit party.

12. In view of the above facts as well as in view of the findings of fact arrived at by the Tribunal, we are of the opinion that no question of law, much less any substantial question of law, arises from the impugned order of the Tribunal.

13. The Appeal, therefore, being devoid of any merit, is accordingly dismissed.

**(BHARGAV D. KARIA, J)**

**(PRANAV TRIVEDI,J)**

JYOTI V. JANI