Customs, Excise & Service Tax Appellate Tribunal,
West Zonal Bench : Ahmedabad

REGIONAL BENCH - COURT NO. 3

Service Tax Appeal No. 59 of 2011

[Arising out of Order-in-Appeal No OIA-SKSS-175-SRT-II-ANK-II-2010 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-II]

M/s Sajjan India Ltd. .... Appellant

Plot No. 6101, 6103, 6117-19,
Gidc, Estate, Ankleshwar,
Gujarat-393002

VERSUS

C.C.E. & S.T. Vadodara-ii .... Respondent

1st Floor... Room No.101,
New Central Excise Building,
Vadodara,
Gujarat-390023

APPEARANCE :

Sh. Dhaval Shah, Advocate for the Appellant
Sh. T.K. Sikdar (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/ 11621/ 2019

DATE OF HEARING : 23.08.2019
DATE OF DECISION: 23.08.2019

RAMESH NAIR

The issue involved in the present case is that whether the exhibition service provided outside India by the exhibition agency in abroad to the appellant located in India is liable to service tax under Section 66A in the hands of the applicant.

2. Sh. Dhaval Shah, Ld. Counsel appearing on behalf of the appellant submits that out of the total amount of demand, the value of service amounting to 2291.77 related to using of website for technical information remitted to STN Columbus Chemicals is not contested other then this entire amount relates to exhibition service which was wholly performed outside India, therefore, as per Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, the exhibition service falling under sub-clause (zzo) is not taxable by the recipient of service in India. He placed reliance on the following judgments:

- Positive Packaging Industries Ltd. 2015 (39) STR 219 (Tri. Mum.)

- Plastichemix Industries 2017 (5) TMI 1145 CES.AMD.

3. Sh. T.K. Sikdar , Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. Heard both the sides and perused the records. We find that as regard the service of using of website the appellant is not contesting, therefore, the demand on the said service is upheld.

5. As regard other services as submitted by the appellant before the lower authority, there is no dispute that that service are of exhibition service provided outside India and received outside India. In case of exhibition service falling under sub-clause (zzo) even part of the service is not received in India, therefore, the service was fully performed outside India. As per the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, Rule 3 in clause (ii) includes (zzo) for which if the service is wholly performed outside India, it will not be taxable, the judgment cited by Ld. Counsel in the case of Positive Packaging Industries Ltd. and Plastchemix Industries (supra) are directly on the issue that whether exhibition service provided outside India is taxable or otherwise, Tribunal held that said service will not be taxable if performed wholly outside India. Following the ratio of these judgments and considering the legal position, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Neha