CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

SERVICE TAX Appeal No. 10756 of 2018-DB

[Arising out of Order-in-Original/Appeal No VAD-EXCUS-004-APP-252-2017-18 dated 28.07.2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

Endeka Ceramics India Pvt Limited **.... Appellant**
Plot No. 74 & 75 Sipcot Electonic Complex,
Kumudepalli Past, Phase-ii, Post Office: Hosur, City :
KRISHNAGIRI, TAMILNADU-635109

VERSUS

Commissioner of Central Excise & ST, Vadodara-ii **.... Respondent**
1st Floor, Room No.101, New Central Excise Building,
Vadodara, Gujarat -390023

APPEARANCE :

Shri Vinay Kansara, Advocate for the Appellant
Shri Anoop Kumar Mudvel, Superintendent (AR), for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

DATE OF HEARING/ DECISION: 18.06.2024

FINAL ORDER NO. 11419/2024

SOMESH ARORA :

In the instant case, the department has sought to raise the demand on the ground of Manpower Recruitment or Supply Agency Service at the reverse charge application to the service recipient, during the relevant period July 2012 to February 2015 and show cause notice was issued on 29.01.2016.

2. Learned advocate has relied on the decisions in the case of *Abbas Mussa Proprietor vs. CCE – (2023) 13 Centax 177 (Tri. Ahmd.)* as well as on the decision in the case *Dayanand Mishra vs. CCE & ST – (2024) 18 Centax 365 (Tri. Ahmd.).* Though, both the decisions are of different proceedings

and has considered the issue of Manpower Recruitment or Supply Agency Service involved in the different sectors. Learned AR justifies only the ratio prevalent at the relevant time to the present matter, while reiterating the findings.

3. We find that the learned Commissioner did not have the benefit of both the decisions. Learned advocate fairly concedes that the matter is required to be decided afresh in the light of the above decisions. Accordingly, the matter is remitted back to learned Commissioner (Appeals) keeping all the issues open.

4. Appeal is allowed by way of remand to Commissioner (Appeals).

(Dictated and pronounced in the open court)

(Somesh Arora)
Member (Judicial)

(C L Mahar)
Member (Technical)

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