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

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 10094 of 2021

(Arising out of OIO-VAD-EXCUS-002-COM-016-20-21 dated- 29/10/2020 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

BETULLA KHAN **........Appellant**
401-402, Param Green, Shukla Nagar, Sama Road
Vadodara
Vadodara, Gujarat

VERSUS

C.C.E. & S.T.-VADODARA-II **......Respondent**
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat -390023

Appearance:
Shri M.K Kothari, Consultant appeared for the Applicant
Shri Kalpesh P Shah, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (TECHNCIAL), MR. RAJU

Final Order No. A / 11791 /2022

DATE OF HEARING: 24.11.2022
DATE OF DECISION: 24.11.2022

RAJU

This appeal has been filed by Betulla Khan against imposition of penalties under section 78A, 77(1) (b), 77 (1) (c) (iii) of the Finance Act, 1994.

2. Shri. M.K Kothari, Learned Consultant appearing for the appellant argued that the appellant was Managing Director of the main noticee company till March, 2014 and with effect from 1st April, 2014 somebody else took over as M.D of the Company. He argued that the entire case pertains to the period transaction after 01.04.2014. He further argued that while the demand has been confirmed no appeal has been filed by the main noticee company namely M/s Accord Industries. The main noticee is in the process of liquidation.

2.1 He further argued that the appellant was operating one bank account of the main noticee company to assist the new Managing Director, however, there has been no charge relating to any misappropriation or misconduct on account of said operation of the bank account.

3. Learned AR relies on the impugned order.

4. I have considered the rival submission. I find that it is not in dispute that the entire case against the company M/s Accord Industries has been booked for transaction after 01.04.2014. The appellant had already left the position of Managing Director at that time and therefore, the entire case relates to the period after the appellant had given up the position of Managing Director.

4.1 The impugned order relied on the fact that the appellant was helping new managing director in operating the ICICI bank account of the main noticee company and therefore, it has been alleged that the appellant was actively involved in the operation after April,2014. I do not find any evidence of that other than the fact that the appellant was operating one bank account, which in itself is not an offence.

5. In view of the above facts I do not find any merit in imposition of penalties on the appellant. The penalty imposed on the appellant is set aside, appeal is allowed.

(Dictated & Pronounced in the open court)

RAJU
MEMBER (TECHNICAL)

Geeta