IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.ST/1780/2011-CU[DB]

(Arising out of Order-in-Appeal No. 115/ST/ALLD/2011 dated 13/09/2011 passed by Commissioner of Central Excise (Appeals), Allahabad)

M/s Shervani Industrial Syndicate Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Shri Shashi Mathews, Advocate for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 10/04/2018
Date of Decision : 10/04/2018

FINAL ORDER NO-70896/2018

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Appeal No.115/ST/ALLD/2011 dated 13.09.2011 passed by Commissioner (Appeals) Central Excise, Allahabad.

2. The brief facts of the case are that the appellants were providing 'Technical Advisory Service' to M/s Gillets Diversified Operation Ltd. The appellants were issued with a show cause notice for the period from 01.04.2001 to 30.09.2002 for demanding service tax of Rs.56,33,000/-.

During the subsequent audit revenue came to know that during the earlier period the information received by Revenue from the appellant about the consideration received by the appellant from M/s Gillets was reported short by an amount of Rs.4,50,00,000/-. Therefore, service tax of Rs.22,50,000/- was short demanded for the period covered by earlier show cause notice. Through show cause notice dated 05.10.2006 short demand & Service Tax of Rs.22,50,000/- was demanded. The said show cause notice was adjudicated by Order-in-Original dated 14.08.2007 wherein Original Authority has confirmed the demand. Aggrieved by the said order, appellant preferred appeal before the Commissioner (Appeals). The learned Commissioner (Appeals) did not interfere with said impugned Order-in-Original dated 14.08.2007. Aggrieved by the said order, appellant preferred appeal before this Tribunal.

3. Heard the parties, considered the submissions and perused the records.

4. After hearing both sides and considering the submissions and on perusal of records, we find from para-5 of show cause notice dated 05.10.2006 that present show cause notice is issued for the same service provided by the same appellant, for which earlier show cause notice was issued which was adjudicated also. Further, the present show cause notice is issued with invocation of extended period. The

law does not allow issue of demand on the same service, from the same assessee, for the same period, for more than one time. Therefore, we hold that impugned show cause notice is not sustainable.

5. Therefore, we set aside the impugned Order-in-Appeal and allow the appeal filed by the appellant.

(Dictated in Court)

(Anil Choudhary)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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