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

APPEAL No. ST/59059/2013-CU[DB]

(Arising out of Order-in-Appeal No.103/ST/APPL/NOIDA/2013 dated 14/05/2013 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Noida)

M/s Novateur Electrical & Digital Systems Pvt. Ltd. **Appellant**

Vs.

Commissioner (Appeals), Customs &

Central Excise, Noida **Respondent**

Appearance:

Shri G. P. Banerji (Advocate) for Appellant
Shri Sandeep Kumar Singh (Deputy Commissioner) AR for Respondent

CORAM:

Hon'ble Justice Shri Dilip Gupta, President
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

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

FINAL ORDER NO. - **72431/2018**

Per: Anil G. Shakkarwar

The present appeal is directed against impugned Order-in-Appeal No.103/ST/APPL/NOIDA/2013 dated 14/05/2013 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Noida.

2. The brief facts of the case are that the appellants were manufacturer and exporter. From books of account

maintained by the manufacturer, it appeared to Revenue that appellant short paid service tax to the tune of Rs.1,04,983/- towards GTA Service. Therefore, proceedings were initiated through show cause notice dated 21/12/2011. The said show cause notice was adjudicated through Order-in-Original dated 28/01/2013. The said Order-in-Original was passed without hearing the appellant since the appellant did not appear for personal hearing in spite of number of opportunities provided to them. Being aggrieved by the said order appellant preferred appeal before learned Commissioner (Appeals). Appellant contended before Commissioner (Appeals) that the expenditure incurred as reflected in books of account which was considered for demand of service tax was on account of services hired from Airlines, Shipping Lines and Railways etc. by the Custom House Agent and the appellants paid the said amount to the Custom House Agent and therefore, they were not liable to pay service tax on the same. The learned Commissioner (Appeals) has held that the appellant has not produced any documentary evidence in support of their contention. Therefore, Commissioner (Appeals) rejected the appeal filed by the appellant.

Aggrieved by the said order appellant is before this Tribunal.

3. Heard the learned counsel for the appellant. He has submitted that the additional evidences were submitted by him in the year 2014 to the Assistant Registrar of this Tribunal and on the basis of said evidence it can be held that they were not liable to pay the service tax demanded.

4. Heard the learned A.R. for the Revenue. He has submitted that in Para-5 of the Stay Order No.59571/2013 dated 25/10/2013 passed in this appeal, this Tribunal has observed that the appellant wants to bring on record certain material and invoices for supporting their contention with the entries in the trial balance related to the services provided by Custom House Agent. The learned A.R. for the Revenue has pointed out that this Tribunal made an observation that the appellant was allowed to file an independent application for said purpose before this Tribunal and further submitted that no such application was filed for admission of additional evidence by the appellant before this Tribunal in the present appeal.

5. Having considered the submissions from both sides, we find that no such application for admission of additional evidence was submitted by the appellant in the present appeal. Therefore, the evidence stated to have been submitted by the appellant in 2014 before the Assistant Registrar of this Tribunal are not admissible to be examined. On perusal of record, we do not find any evidence to support the contention of the appellant. We, therefore, do not find any reason to interfere with the impugned Order-in-Appeal.

6. We, therefore, dismiss the appeal filed by the appellant.

(Dictated & Pronounced in Court)

Sd/-
(Justice Dilip Gupta)
President

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Lks