

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

ST/50172/2014-CU[DB]

(Arising out of Order-in-Appeal No.62/ST/Alld/2013 dated 08.08.2013 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Allahabad.)

Saraf Hospital

...APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Allahabad

RESPONDENT (S)

APPEARANCE

Shri Vineet Kumar Singh (Advocate) for the Appellant (s)
Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) & Shri Mohd. Altaf
(Asstt.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION 06.12.2018

FINAL ORDER NO.72951/2018

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Vineet Kumar Singh, learned Advocate on behalf of the appellant and Shri Sandeep Kumar Singh, learned Dy. Commr. (A.R.) along with Shri Mohd. Altaf, learned Asstt.Commr.(A.R.) on behalf of the Revenue, we note that the appellant is a hospital engaged in providing 'health services'. During the period from 01.07.2010 to 30.04.2011, the appellant allegedly provided services covered by Section 65(105)(zzzz) of Finance Act, 1994. The said entry which existed till 30.04.2011 and was introduced w.e.f.

01.07.2011 provided definition of taxable service and included any service provided by any hospital, nursing home or multi-speciality clinic to a person covered by health insurance scheme, for any health check up or treatment where payment for such health check up or treatment was made by the insurance company directly to such hospital, nursing home or multi-speciality clinic. We note that during the aforesaid period appellant received an amount of Rs.28,81,643/- from M/s.ICICI Lombard General Insurance Company for providing health services to members of society who were below poverty line under Rastriya Swastha Bima Yojana and therefore they were called upon to show cause as to why Service Tax amounting to Rs.2,96,809/- should not be demanded from them through show cause notice dated 29.11.2012. The proceedings so initiated culminated into confirmation of demand with imposition of penalties and such confirmation was upheld by learned Commissioner(Appeals) through impugned order-in-appeal and ultimately culminated into filing of present appeal before this Tribunal.

2. We have taken into consideration the contention raised by the learned Counsel that the provisions of health service was of Govt. of India through aforesaid scheme and therefore Service Tax is not liable to be levied. He has further relied on order passed by Hon'ble Madras High Court in the case of Arvinth Hospitals v. Additional Commissioner, Salem reported at 2017 (48) S.T.R. 337 (Mad.)]. We note that learned A.R. has submitted that in so far as the definition of said service is concerned as provided under Section 65(105)(zzzz) of Finance Act, 1994, it is immaterial as to who has paid the premium for the

insurance. He has further submitted that once the payment for providing service was made directly to the hospital by insurance company then such transaction satisfies definition of said service. We have gone through the definition and note that the requirement in the definition of said service is that the treatment is provided by service provider and payment is made by insurance company directly to the service provider. then it satisfies the definition of health services provided under Section 65(105)(zzzz) of Finance Act, 1994. We have also gone through the order passed by Hon'ble Madras High Court and we note from para 12 of said order that the Hon'ble Madras High Court has remanded the matter to the respondent before them to consider the entire issue afresh. We therefore hold that the appellant during the relevant period had provided said services and therefore there is no reason for us to interfere with the impugned order. In view of the above discussion appeal filed by appellant is rejected.

(Operative part of the order was pronounced in the open Court.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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