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

APPEAL Nos.ST/70343/2017 & 70208/2018-CU[DB]

[IN APPEAL NO.ST/70343/2017]

(Arising out of Order-in-Appeal No. 55-56/ST/APPL-ALLD/LKO/2017 dated 15/02/2017 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Gayatri Hospital, **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Request for Adjournment, for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

[IN APPEAL NO.ST/70208/2018]

(Arising out of Order-in-Appeal No. 26/ST/ALLD/2018 dated 08/01/2018 passed by Commissioner of CGST & Central Excise (Appeals), Allahabad)

M/s Vivek Sewa Samiti, **Appellant**

Vs.

Commissioner of Central Excise & S.T., Allahabad **Respondent**

Appearance:

Shri Subhash Chand, Advocate for Appellant
Shri Shiv Pratap Singh, Deputy Commissioner (AR), for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 20/02/2019
Date of Decision : 20/02/2019

FINAL ORDER NOS-**70335-70336 / 2019**

Per: Anil G. Shakkarwar

In respect of appeal filed by M/s Vivek Sewa Samiti we have heard learned Advocate Shri Subhash Chand for appellant and learned A.R. Shri Shiv Pratap Singh, Deputy Commissioner for revenue. As the issue involved in the appeal filed by M/s Gayatri Hospital, is the same, after rejecting the request for adjournment, we proceed to decide both the said appeals together.

2. After hearing both the sides and on perusal of record, we note that the appellants are hospitals engaged in providing 'Health Services'. During the period from 01.07.2010 to 30.04.2011, the appellants allegedly provided services covered by Section 65 (105) (zzzzo) of Finance Act, 1994. The said entry which existed till 30.04.2011 and was introduced w.e.f. 01.07.2010 provided definition of taxable service and included any service provided by any hospital, nursing-home or multispecialty 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 multispecialty clinic. We note that during the aforesaid period appellants M/s Vivek Sewa Samiti received amount of approximately Rs.1.5 crores & M/s Gayatri Hospital received amount of approximately Rs.82 lakhs from M/s ICICI Lombard General Insurance Company

for providing health services to members of society who were below the poverty line under 'Rastriya Swastha Bima Yojana' and therefore, they were called upon to show cause as to why service tax should not be demanded from them, through the issuance of separate show cause notices. The proceedings culminated into confirmation of demand with imposition of penalties. Such confirmation was upheld by learned Commissioner (Appeals) in respect of demand and interest. However, the penalty under Section 78 was set aside through the impugned Orders. Hence, the present appeals filed by the appellants.

3. 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. 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)(zzzzo) 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)(zzzzo) of Finance Act, 1994. We, therefore, hold that the appellants during the relevant period had provided said services and therefore, there is no reason for us to interfere with the impugned orders.

4. In view of the above discussions, appeals filed by appellants are rejected.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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