CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, ALLAHABAD

REGIONAL BENCH : COURT NO.I

Service Tax Appeal No.71304 of 2018

(Arising out of Order-in-Appeal No.279/ST/Alld/2018 dated 13.07.2018 passed by Commr.(Appeals)CGST & Central Excise, Allahabad.)

M/s. B.P.Singh & Brothers
(Renukoot, Sonebhadra, U.P.)

...Appellant

VERSUS

Commr. Appeal, Central Excise & CGST, Allahabad

.....Respondent

(38, Mahatma Gandhi Marg, Civil Lines, Allahabad)

APPEARANCE

Shri Rakesh Kumar for the Appellant (s)
Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)

FINAL ORDER NO.70931/2019

DATE OF HEARING : 13 May 2019
DATE OF DECISION : 13 May 2019

MRS. ARCHANA WADHWA :

After hearing both sides I find that the appellant is engaged in providing services falling under the category of 'manpower supply'.

2. Revenue after making investigation at the end of the service recipient i.e. M/s.Grasim Industries concluded that the appellant had collected Service Tax of Rs.72,81,133/- from the service recipient, but have only deposited an amount of Rs.57,58,298/- with the Revenue. Accordingly proceedings were initiated against them resulting in

confirmation of the differential demand of service tax along with interest and imposition of penalties.

3. The appellant took a categorical stand before Commissioner(Appeals) that the entire tax stands deposited by them and certain mis-calculations were also pointed out by them. The Commissioner(Appeals) while disposing of the appeal observed as under:-

> "4.2.2 Thus, I find that the appellant did not co-operate during the enquiry and the adjudication proceedings. Even during the appeal, they tried to show the amount of penalty paid by them, as amount of Service Tax deposited by them for 2014-15. Since they had collected Service Tax (including Cesses) of Rs.72,81,133/- from the service recipient and had deposited Rs.57,58,298/- only as per their ST-3 returns, I find that their appeal is devoid of any substance."

4. Learned Advocate appearing for the appellant submits that they have all the documentary evidences with them to show that the entire Service Tax collected by them from M/s.Grasim Industries stand deposited by them. Inasmuch as the said plea of the learned Advocate is relatable to the factual position, which can be verified only at the level of the original adjudicating authority, I set aside the impugned order and remand the matter to the original adjudicating authority for fresh decision, after giving an opportunity to the appellant to put forth their case. Appeal is allowed by way of remand.

(Dictated and pronounced in the open Court.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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