CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.50974 of 2014

(Arising out of Order-in-Appeal No.106/ST/ALLD/2013 dated 07/11/2013 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad)

M/s Sahara Enterprises **.....Appellant**

Flat No.1, ATP Shopping Complex

Anpara,

Sonebhadra (U.P.)

VERSUS

Commissioner of Central Excise & Service Tax, Allahabad

.....Respondent

APPEARANCE:

Absent on Call, for Appellant
Shri Mohd. Altaf, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING : 15 May. 2019
DATE OF DECISION : 15 May, 2019

FINAL ORDER NO. **71005 / 2019**

ARCHANA WADHWA

On matter being called neither anybody appeared nor is there any adjournment request, in spite of the notice of hearing having been sent well in advance. Accordingly, we have heard learned AR appearing for the Revenue and have gone through the impugned order.

2. As per facts on record, the appellant is registered with the Service Tax Department under the category of

'Maintenance and Repair Services' and were discharging their service tax liability by filing ST-3 Returns etc. The Revenue made certain investigations at the end of service recipient, M/s Anpara Power Corporation and found that the consideration for various services made by the said service recipient was much on the higher side then the one reflected by the appellant in their ST-3 Returns.

3. In view of the above background proceedings were initiated against the appellant by way of issuance of show cause notice proposing confirmation of demand on the differential amount as paid by the service recipient and as reflected in ST-3 Returns. The same stand confirmed by the Original Adjudicating Authority along with confirmation of interest and imposition of penalty. The Order-In-Original stand upheld by Commissioner (Appeal) and hence the present appeal.

4. On going through the appeal memo, we note that appellant had taken a stand that the consideration received by them from M/s Anpara Power Corporation is not on account of 'Management & Repair Service' but the same is also for providing the other non-taxable services like up-

keeping of store, cleaning sweeping & dusting and minor handling of material and opening/closing of cases & its counting, checking and their placement at proper places of Central Stores during the relevant period. These services were not covered under any category of services. They have also taken a stand that they provided non-taxable services of cement plastering in old residential colonies as also washing and painting work in C.I.S.F. Colony of Anapara under different contracts which was exempted from service tax.

It is seen that all the above pleas have not been taken into consideration by the Lower Authorities and requires verification at their end. As such, we set aside the impugned order and remand the matter to Original Adjudicating Authority for examining the said pleas of the appellant, in the light of the contracts entered by them with the service recipient and to decide the matter afresh.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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