CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70344 of 2018-Division Bench

(Arising out of Order-in-Original No.16/COMMR./ST/NOIDA/2017-18 dated 25/01/2018 passed by Commissioner of Central Goods and Services Tax, Noida)

M/s Pragati Development

Consulting Services Ltd. **.....Appellant**

(Logix Park, 1st Floor, Plot No. A4 & A5, Sector-16, Noida-201301)

VERSUS

Commissioner CGST, Noida **....Respondent**

(C-56/42, Renu Tower, Sector-62, Noida)

APPEARANCE:

Shri Sanjay Kumar, Advocate for the Appellant
Shri Sandeep Kumar Singh Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO.- 71122 / 2019

Date of Hearing : 17 June, 2019
Date of Decision : 17 June, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri Sanjay Kumar learned advocate on behalf of the appellant and Shri Sandeep Kumar Singh learned A.R. on behalf of Revenue, we note that the appellants were providing certain services to UNICEF and they were not paying service tax in respect of said services in view of the their understanding that services provided to UNICEF are covered by exemption Notification No.16/2002-ST dated 02/08/2002 and Notification No.25/2012-ST dated 20/06/2012 for period with effect from 01/07/2012. Therefore proceedings were initiated against the appellant through show cause notice dated 19/09/2016 for recovery of service tax amounting to around Rs.7 crores for the period from 01/04/2011 to 30/09/2015. We note that learned Original Authority has observed that under Notification No.108/95-CE dated 28/08/1995 as well as under Notification No.84/97-Cus dated 11/11/1997 UNICEF is specifically mentioned whereas in service tax Notification UNICEF is not specifically mentioned therefore, he has denied the said exemption to the appellant. We note that the entry for service tax exemption is as follows "services provided to the United Nations for specified international organization". Learned advocate has relied on this Tribunal's decision in the case of Ballset Entertainment Pvt. Ltd. vs. Commissioner of Service Tax, Delhi reported at 2018 (10) G.S.T.L. 372 (Tri.-Del.) wherein it has been observed in Para-5 of the said decision of this Tribunal that UNICEF is covered by exemption Notification No.16/2002-ST. Further learned counsel for the appellant also relied on this Tribunal's decision in the case of AC Nielson Org. Marg Pvt. Ltd. vs. Commissioner Service Tax, Mumbai reported at 2018 (12) G.S.T.L. 322 (Tri.-Mum.) wherein it has been held that in said case if any entry falls under umbrella of United Nations same is covered under the exemption Notification and therefore the exemption is admissible to the appellant. He has also submitted that United Nations' website shows UNICEF as an arm of United Nations. Learned Departmental Representative has relied on the impugned order.

2. After having considered the submission from both the sides and perusal of record, we note that the Original Authority has taken Central Excise & Customs Notification into consideration to decide the matter related to service tax and held that since UNICEF is not mentioned in Notification No.16/2002-ST dated 02/08/2002 exemption for services provided to UNICEF is not covered by said service tax

Notification. We note that this Tribunal has already held in the above stated case of Ballset Entertainment Pvt. Ltd. that UNICEF is covered by said Notification No.16/2002-ST by following said decision of this Tribunal, we hold that the appellants were entitled for exemption under Notification No.16/2002-ST dated 02/08/2002 for services provided to United Nations as also by identically worded Notification No.25/2012-ST dated 20/06/2012 for period subsequent to 01/07/2012. In view of the said findings, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks