CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Appeal No.70526 of 2018
(Arising out of Order-in-Appeal No.12/Commissioner/Meerut/2018 dated 08/03/2018 passed by Commissioner, Central Goods & Service Tax, Meerut)

M/s Gazraj Security Guards Pvt. Ltd. **.....Appellant**

VERSUS

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

APPEARANCE:

Shri Devinder Sharma, Advocate for Appellant
Shri Pawan Kumar Singh, Authorized Representative for Respondent

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

DATE OF HEARING : 20 May, 2019
DATE OF DECISION : 20 May, 2019

FINAL ORDER NO. **71130 / 2019**

ARCHANA WADHWA

After hearing both the sides we find that the appellant was providing taxable services falling under the category of 'Security Agency Service'. As the said services were being provided by them to various SEZ units, they claimed the benefit of Exemption Notification No.12/2013-ST dated 01 July, 2013. The said notification prescribes an elaborate procedure of filing of certificates etc. for the purpose of ensuring that the services stand provided to SEZ units only. The appellant was following the said procedure.

2. As per audit conducted in their premises, certain defects were pointed out to the certificates and the other records required to be maintained by the appellant leading to demand of around Rs.1,98,489/-. Instead of contesting the said demand, the appellant deposited the same along with interest prior to issuance of the show cause notice.

3. Even though in terms of the provisions of Section 73(3) of the Finance Act, the proceedings should have been held as finally concluded, Revenue went ahead with issuance of show cause notice proposing to confirm the demand and imposing penalty under Section 78. The same was adjudicated by the Original Adjudicating Authority confirming the demand and imposing penalty to the extent of 100% of the duty. Commissioner (Appeals) vide his impugned order reduced the penalty to 50%. Hence the present appeal.

4. The contention of the learned advocate appearing for the appellant is that even though a part of the demand is time barred and there was only procedural infraction on their part and the fact is that services were actually provided to SEZ unit, they did not contest the demand so as to buy peace with the Revenue. In such a scenario the penal proceedings should not have been initiated against them.

5. We fully agree with the learned advocate. The entire purpose of the Section 73(3) is to reduce litigation by not issuing show cause notice where an assessee accepted his liability and deposited the duty. As such we are of the view that the penalty imposed upon the appellant is required to be set aside. We order accordingly and allow the appeal to that extent.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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