CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No. 70387 of 2016-[DB]

(Arising out of Order-in-Original No. ALD/EXCUS/000(ST-204/2013) 01 of 2016 dated 07/01/2016 passed by Commissioner of Central Excise & Service Tax, Allahabad)

M/s Sheikh Bhullan Carpets Pvt. Ltd. .....Appellant

(Pure Gulab, Gopiganj, Bhadohi, Sant Ravidas Nagar)

VERSUS

Commissioner of Central Excise & Service Tax,

....Respondent

(Allahabad)

APPEARANCE:

Shri Sheeta Ram, Consultant for the Appellant
Shri Shiv Pratap Singh, Deputy Commissioner Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO71297 / 2019

Date of Hearing : 03 July, 2019
Date of Decision : 03 July, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri Shita Ram, learned consultant for appellant and Shri Shiv Pratap Singh leanred Deputy Commissioner Authorised Representative for revenue, we note that through the impugned order service tax under Reverse Charge Mechanism of around Rs.22 lakhs was confirmed against the appellant with equal penalty in respect of two services received by the appellant which are 'Advertising Agency Service' and 'Intellectual Property Service'.

2. After hearing both the sides and on perusal of records, we note that on 21.07.2015 appellants were issued with acknowledgement of discharge in the form VCES-3 in respect of tax dues of Rs.15,01,775/- declared by the appellant. As per the submission of learned Counsel for appellant the said tax dues were declared in respect of receipt of advertising service from foreign country. We, therefore, hold that under Section 108 of Finance Act, 2013 appellant have received immunity on 21.07.2015 in respect of tax dues of Rs.15,01,775/- in respect of advertising services. We, set aside the demand of service tax along with equal penalty and interest in respect of service tax of Rs.15,01,775/- taking into consideration that for the period from 01.04.2008 to 28.03.2013 the service tax calculated by the Original Adjudicating Authority was Rs.16,98,113/- taking the rate of service tax to be 12.36% advalorem for the whole period whereas the calculation of service tax on same taxable value reflected in Order-in-Original in respect of advertising service works out to the amount which was declared by the appellant applying rate of duty that was applicable from time to time. Therefore, we drop all the proceedings in respect of advertising services.

3. In respect of 'Intellectual Property Services', we remand the matter to the Original Adjudicating Authority with direction to take into consideration the Final Order passed by this Tribunal in the case of M/s Chambal Fertilizers & Chemicals Ltd. Vs

Commissioner of Central Excise, Jaipur-i reported as 2016 (45) STR 118 (Tri.-Del.) or any other decision which the appellant wish to rely upon, after giving opportunity to the appellant to present their case. We also give liberty to appellant to submit correct computation of service tax after taking into consideration effective rate of service tax during relevant period to the Original Authority.

3. In above terms, appeal is partially allowed and partially remanded.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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