CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70038 of 2019

(Arising out of Order-in-Appeal No.263/ST/ALLD/2018 dated 22/06/2018 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s G. Tel Corporation .....Appellant

(52/82, Co-operative Building, Mint House, Nadesar, Varanasi)

VERSUS

The Commissioner (Appeals) Customs

& Central GST, Allahabad ....Respondent

(38, M.G. Marg, Allahabad)

APPEARANCE:

Shri Manoj Kumar Agarwal, Chartered Accountant for the Appellant
Shri Pawan Kumar Singh, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. - 71544 / 2019

Date of Hearing : 14 August, 2019
Date of Decision : 14 August, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri Manoj Kumar Agarwal learned Chartered Accountant on behalf of the appellant and Shri Pawan Kumar Singh on behalf of Revenue, I note that the appellant had provided Renting of Immovable Property Service to M/s Indus Towers Ltd. and the appellants were issued with a show cause notice dated 23/03/2017 for demand of service tax of Rs.4,30,367/-. The Adjudicating Authority confirmed the demand of service tax of Rs.2,76,310/- alongwith interest and also imposed penalty.

Aggrieved by the said order appellant preferred appeal before Commissioner (Appeals). Learned Commissioner (Appeals) has examined all the contentions raised by the appellant and modified the Order-in-Original dated 11/04/2018 and reduced the service tax demand to Rs.2,44,903/- alongwith interest and reduced the penalty under Section 78 of Finance Act, 1994 to Rs.1,57,230/-. Aggrieved by the said order appellant is before this Tribunal. The contention of the appellant is that the appellant is a partnership firm and has received rent on behalf of individual partners and after receipt of rent has distributed the same to the different partners, therefore the partnership firm should not be taxed. The said contention of the appellant is not tenable in law because as per the books of account and as per the record of the service receiver the payment is made to the appellant and this fact cannot be denied. In view of the fact of the case, I do not find any reason to interfere with the impugned Order-in-Appeal. Therefore after upholding the impugned Order-in-Appeal, I reject the appeal filed by the appellant.

(Dictated and pronounced in open court)

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

Lks