CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Service Tax Cross Objection Application No.70183 of 2019
(On behalf of the Respondent)
In
Service Tax Appeal No.70959 of 2018

(Arising out of Order-in-Appeal No.173/ST/Appeal/Audit LKO/2018 dated 26/03/2018 passed by Commissioner (Audit), Central Goods & Service Tax And Central Excise, Lucknow)

Commissioner, CGST & CX **.....Appellant**

(117/7, Sarvodaya Nagar, Kanpur-208005)

VERSUS

M/s S.T. Advani & Co. **.....Respondent**

(122/721, Shastri Nagar, Kanpur-208012)

APPEARANCE:

Shri Shiv Pratap Singh, Authorized Representative for Appellant
Shri Ravi Holani, Advocate for Respondent

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

DATE OF HEARING : 06 September, 2019
DATE OF DECISION : 06 September, 2019

MISCELLANEOUS ORDER NO. 70338 / 2019

FINAL ORDER NO. 71900 / 2019

PER : ANIL G. SHAKKARWAR

After hearing both the sides duly represented by learned Deputy Commissioner, Shri Shiv Pratap Singh appearing on behalf of the Revenue and learned Advocate Shri Ravi Holani appearing on behalf of the respondent, we note that the present appeal is filed by Revenue and the respondents were engaged in the activity of construction of civil structure. The respondents executed civil construction for educational organizations such as Indian Institute of Technology, Kanpur, Harcourt Buttler

Technological Institute, All Indian Council of Technical Education, Kendriya Vidyalaya and were also engaged in construction of civil structures for government organizations such as combined Hospital at Mahoba for Uttar Pradesh health system project, Central Reserve Police Force, Indo-Tibetan Border Police, SSB, SIB and Chaudhari Charan Singh Airport Lucknow for Airport Authority of India Ltd. For the period from 2005-06 to 2013-14 respondents were issued with various show cause notices for demand of service tax on the activity of civil construction undertaken by the respondent claiming that the Indian Institute of Technology was a commercial organization and the respondents were engaged in the construction of residential complex service and that the authorities for whom the respondent had undertaken activity of civil construction were not governmental authorities and therefore, respondents were not eligible for exemption under Notification No.25/2012 dated 20 June, 2012.

2. All the above stated show cause notices dated 21 October, 2010, 19 October, 2011, 03 September, 2012, 10 December, 2013 and 22 April, 2015 were adjudicated through a common Order-In-Original dated 20 March, 2017. The Original Authority has examined all the provisions of law existed during the relevant period and dropped all the above stated show cause notices. Aggrieved by the said order, Revenue preferred appeal before Commissioner (Appeals). The learned Commissioner (Appeals) through impugned Order-in-Appeal dismissed the appeal filed by the Revenue. Aggrieved by the said order Revenue is before this Tribunal.

3. After hearing both the sides and on perusal of record we note that all the grounds that were raised in the show cause notice were decided against Revenue by both the Lower Authorities. We find that Revenue has again raised same grounds for filling appeal before this Tribunal. We also note that the said grounds raised by Revenue have already been adjudicated. We note that Revenue has not raised any ground to contest the decisions of the Lower Authorities. Therefore, since

no grounds having been raised to establish that the conclusions drawn by the learned Commissioner (Appeals) are not sustainable, we find no reasons to interfere with the impugned order. We therefore, uphold the impugned Order-in-Appeal and reject the appeal filed by Revenue.

4. Cross Objection also gets disposed of.

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

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