CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 1855 of 2010

(Arising out of Order-in-Original No.40/2010-Commr.LTU dt. 20/05/2010 passed by Commissioner of Service Tax (LTU), Bangalore)

M/s. DTDC Courier & Cargo Limited,
1-10-74/B, Technopolis Building,
Begumpet,
Hyderabad – 500 016. .... **Appellant(s)**

VERSUS

Commissioner of Central Excise and Service Tax (LTU),
JSS Towers, 100ft Ring Road,
Banashankari 3rd Stage,
Bangalore – 560085 .... **Respondent(s)**

Appearance:

Mr. N. Anand, Advocate for the Appellant
Mr. Dyamappa Airani, Authorised Representative for the Revenue.

Coram:
Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20045 / 2024

Date of Hearing: 20.09.2023

Date of Decision: 19.01.2024

Per: Dr. D. M. Misra

This appeal is filed against the Order-in-Original No.40/2010-Commr.LTU passed by the Commissioner of Central Excise & Service Tax-LTU, Bangalore.

2. Briefly stated the facts are that during the relevant period from 10/09/2004 to 30/06/2006, the appellant had provided service of delivery of shipment / documents on behalf of their franchisee and collected certain amounts from them in the form of trans-shipment charges for rendering the said service. Alleging that trans-shipment charges collected from their franchisee falls under the category of Business Auxiliary Service for the said period, a demand notice has been issued to the appellant for recovery of service tax during the period 10/09/2004 to 30/06/2006. On adjudication, the demand of Rs.60,36,388/- with interest and penalty was confirmed. Hence, the present appeal.

4. The learned advocate for the appellant submitted that all along, it has been argued by the appellant that for delivery of shipments/documents from their franchisee, certain amount has been charged and the service rendered by the appellant is in the nature of co-loader service. It is his contention that therefore, confirmation of demand of service tax on the said trans-shipment charges under Business Auxiliary Service cannot be sustained. He has submitted that in their own case for Hyderabad unit, this Tribunal referring to the principle of law laid down on the subject, reported as ***DTDC World Wide Express Ltd. Vs. CCE,C&ST [2019-TIOL-255-CESTAT-HYD]*** held that the amount collected as co-loader from other courier agency cannot be taxable under 'Business Auxiliary Service'.

4. Learned AR for the Revenue reiterated the findings of the learned Commissioner (Appeals).

5. We find that the issue has been considered recently in the appellant's own case by this Tribunal, wherein the appellant provided services as co-loader to their foreign counterparts has been held to be not chargeable to service tax under the category of 'Business Support Service'. In the present case, the appellant has provided services to domestic courier agencies for trans-shipment of courier/parcels etc. as co-loader. The Hyderabad Bench of the Tribunal in the appellant's own case reported as ***DTDC World Wide Express Ltd. Vs. CCE,C&ST [2019-TIOL-255-CESTAT-HYD],*** considering the applicability of service tax under Business Auxiliary for providing co-loader service to other courier agencies under franchisee agreement, held that such service would not come under the scope of 'Business Auxiliary Service' .

6. Following the above said precedent in the appellant's own case, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Pronounced in open court on 19.01.2024)

(D.M. Misra)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

Raja...