CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 2252 of 2010

(Arising out of Order-in-Appeal No.196/2010 dated 28.07.2010 passed by the Commissioner of Central Excise(Appeals), Mangalore.)

M/s. Manjunath Cement Products,
Narasapur, at Gadag-Begeri,
Gadag District,
Karnataka.

Appellant(s)

VERSUS

The Commissioner of Central Excise and Service Tax,
7th Floor, Trade Centre,
Bunts Hostel Road,
Dakshina Kannada,
Karnataka – 575 003.

Respondent(s)

APPEARANCE:

None for the Appellant

Mr. Rajesh Shastry, Superintendent(AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20631 /2024

DATE OF HEARING: 07.08.2024
DATE OF DECISION: 07.08.2024

PER : DR. D.M. MISRA

None present for the appellant despite notice. The matter has been rolling for quite sometimes; hence taken up for disposal after hearing the learned AR for the Revenue.

2. The learned AR for the Revenue submits that in the present appeal, the appellant has challenged levy of service tax on GTA services as the Commissioner has disallowed the abatement under Notification No.32/2004-ST dated 03.12.2004. He submits that however, the learned Commissioner, after allowing the abatement in principle, remanded the matter to the adjudicating authority to re-examine and compute the quantum of admissible abatement from the value of the GTA taxable service. It is his contention that therefore, the appellant should not have approached this Tribunal but submitted the documents before the adjudicating authority for quantification of demand and participated in the *de novo* proceedings.

3. We find merit in the contention of the learned AR for the Revenue. The learned Commissioner(Appeals) in the impugned order observed as follows:-

ORDER

1. *… … …*
2. *With regard to the request made by the appellant for allowing 75% abatement on the freight charges paid by them, I direct the adjudicating authority to re-examine the matter and allow the benefit of abatement to the appellant if they fulfil the prescribed conditions under the relevant Notification and accordingly re-quantify the actual service tax payable by the appellant. Excess amount paid, if any, by the appellant may be refunded subject to verification of unjust enrichment clause. Afte re-quantification if it is found that the appellant has already paid excess amount, then the question of demanding interest and imposing equivalent penalty needs to be re-examined by the adjudicating authority.*

4. From the aforesaid order, it is clear that the learned Commissioner(Appeals) in principle allowed the abatement, however remanded the matter to re-quantify the service tax payable by the appellant. In these circumstances, we do not find merit in the appeal and the matter is remanded to the adjudicating authority to compute the demand in accordance with the direction of learned Commissioner(Appeals). Appeal is disposed of.

(Order pronounced and dictated in open court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja…