CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

ST/278/2007-DB

[Arising out of No. 05-2007 dated 28/03/2007 passed by ,]

GREAT INDIA TOUR COMPANY
CORPORATION BUILDINGS, TRIVANDRUM

Appellant(s)

Versus

C.C.,C.E.& S.T-TRIVANDRUM
T.C.NO.26/334(1&2),
I.C.E BHAVAN,PRESS CLUB ROAD,
TRIVANDRUM
KERALA
695001

Respondent(s)

Appearance:

Mr. Manoj Pillai, Advocate
AH-116, 7th Main Road, Anna Nagar,
Tamil Nadu-400040 Chennai

For the Appellant

For the Respondent

Dr. J.Harish, AR

Date of Hearing: 29/06/2018
Date of Decision:03/07/2018

CORAM:
HON'BLE SHRI S.S GARG, JUDICIAL MEMBER
HON'BLE SHRI P.ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20870/2018

Per : P.ANJANI KUMAR

The appeal arises out of Order-in-Original No. 5/2007 dated 30.03.2007 passed by Commissioner of Central Excises and Customs, Trivandrum.

2. The appellants are registered as tour operators having branches at Cochin and New Delhi. The department alleged that:

(i) The appellant did not maintain proper invoices by including all charges collected from the clients.

(ii) The appellant was not eligible for exemption under Notification No.6/99.

(iii) There is a wide variation between the figures reflected in the financial statement and figures as reflected in the invoices. A Show Cause Notice was issued and learned Commissioner has confirmed amounts of (i) Rs.6,97,014/-; (ii) Rs.5,01,983/- and (iii) Rs.17,95,869/- respectively on the above allegations.

3. The advocate for the appellant has submitted that while they concede the demand of Rs.6,97,014/- as they committed the irregularity by mistake. However, as regards the point no. (ii) and (iii), they could not submit the records to the adjudicating authority at the relevant time. However, they have submitted a certificate by Chartered Accountant. Now, they are in a position to show the record of the exact quantum of foreign exchange repatriated and consumed in India vis-à-vis total collection in foreign exchanges. Similarly, they are in a position to show their turnover from the different branches. They submitted that allowances/abatement for the same may accordingly be given.

4. The Authorized Representative (AR) submitted that since the issue pertains to verification of records which were not submitted at the time of adjudication, it will in the fitness of

things to remand back the case to the original adjudicating authority to verify the claims of the appellants with the documents and pass a suitable order.

5. Accordingly, we allow the appeal by way of remand to the adjudicating authority with a direction to verify the claim of the appellants with the documentary evidences to be produced by the appellants in respect of the receipt in convertible foreign exchanges and the variation between financial statement figures and invoices figures. The demand pertaining to an amount Rs.6,97,014/- as at (i) above is upheld.

(Operative portion of the Order was pronounced
in Open Court on **03/07/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

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