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

Appeal(s) Involved:

ST/110/2009-DB

[Arising out of Order-in-Original No. 16/08 dated 19/11/2008 passed by Commissioner of Central Excise and Customs, Belgaum]

M/s. JSW STEEL LTD
VIJAYANAGAR WORKS,
P.O VIDYANAGAR, TORANGALLU,
DIST BELLARY-583275

Appellant(s)

Versus

Commissioner of Central Excise,
Customs and Service Tax
BELGAUM
NO. 71...CLUB ROAD,
CENTRAL EXCISE BUILDING,
BELGAUM, - 590001
KARNATAKA

Respondent(s)

Appearance:

Mr. Akshit Malhotra, Advocate (No Vakalatnama) — For the Appellant

Dr. J.Harish, AR — For the Respondent

Date of Hearing: 23/07/2018
Date of Decision: 23/07/2018

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

Final Order No. 20980 / 2018

Per : P.ANJANI KUMAR

M/S. JSW Steel Ltd. (the appellants) have entered in an agreement with M/S. JFE-E, a Japan firm for the technical services in the form of training, to be rendered to the appellants. The Department contended that whereas the appellants discharged the Service Tax on a value of services received by them in India but have not discharged the Service Tax liability on the value of services received outside India during the period from November 2004 to July 2005. The Department has issued a SCN for recovery of Service Tax of Rs.55,97,170/; they have also demanded interest under Section 75 and penalties under Section 76, 77 and 78 of Finance Act, 1994. The SCN was confirmed by Commissioner vide Order 16/2008 dated 19.11.2008. The appellants preferred an appeal on the same.

2. The appellants contended that no Service Tax is required to be paid in respect of Service Tax received outside India, however, the Department contended that the services provided by any professionally qualified engineer i.e. service rendered by M/s. JFE-E was liable to Service Tax under the category of “consulting engineer service” as defined under Section 65 (31) of the Finance Act, 1994.

3. The learned counsel for the appellants has submitted that Hon'ble High Court of Karnataka in the case of ***Commissioner of C.Ex. & S.T., LTU, Bangalore Vs. ABB Ltd. 2015 (39) STR 734 (Kar.)*** has categorically held that prior to 18.04.2006, the Service Tax was not payable by the recipient in the event services provided outside the country and he has no permanent address or place of business within the country. The learned counsel also submitted that similar was the decision of Karnataka High Court in the case of ***Commissioner of C.Ex. & S.T., Bangalore Vs. Micro Labs Ltd. 2011 (22) STR 615 (Kar.).*** The learned counsel has further submitted that Hon'ble High Court of Bombay in the case of ***Indian National Shipowners Association Vs. UOI 2009 (13) STR 235 (Bom.)*** have also held that before enactment of Section 66A though there was no authority vested by law to levy Service Tax on a person who is residing in India, but who receives services outside India.

4. The Authorized Representative has reiterated the findings of the OIA.

5. Heard both sides and perused the records of the case.

6. We find that the issue is squarely covered by the decisions of Karnataka High Court (supra). We find that the recipient of the services in India is liable to discharge the Service Tax liability on the service received abroad only w.e.f. 18.04.2006 with the enactment in Section 66A of the Finance Act, 1994.

7. In view of the above, the appeal is allowed with consequential relief, if any.

(Operative portion of the Order was pronounced in Open Court on **23/07/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

Parveen...