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

Appeal(s) Involved:

**ST/80/2009-DB**

[Arising out of Order-in-Original No. 21/2008 dated 05/11/2008 passed by Commissioner of Central Excise, Mangalore]

**SYNDICATE BANK**
CAD-TAX CELL HEAD OFFICE,
MANIPAL- 576104

Appellant(s)

**Versus**

**Commissioner of Central Excise and Service Tax MANGALORE**
7TH FLOOR...TRADE CENTRE,
BUNTS HOSTEL RD.,
MANGALORE, - 575003
KARNATAKA

Respondent(s)

**Appearance:**

**Mr. Dheeraj, CA (No Vakalatnama)** For the Appellant

**Mr. Pakshirajan, AR** For the Respondent

Date of Hearing: 02/08/2018
Date of Decision: 02/08/2018

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

**Final Order No. 21093 / 2018**

**Per : P. ANJANI KUMAR**

M/S. Syndicate Bank (the appellants) is a banking company and a body corporate, conducting their operations in India. It was alleged by the Department that the appellants were acting as the agents for the Reserve Bank of India and were receiving agency commission at the rates notified by RBI, on per transaction basis, in respect of receipts or payments made, on behalf of the Government of India. It was alleged that the services provided by the appellant to the RBI amounted to providing a taxable service under the Banking and other Financial Services which was taxable from 10.09.2004. The Department issued a SCN to the appellants. It was contended by the Department that CBEC vide its Circular No. 356/53/2007 TRU has clarified that service is leviable on the taxable services provided irrespective of status of the consumer of service. There is no exemption from taxes on the ground that the same is Government. The Commissioner vide Order-in-Original No. 21/2008 dated 31.10.2008 has confirmed the demand.

2. The appellants contended that the SCN covered the entire period up to 30.09.2006 and was beyond the scope of the Section 73 of the Finance Act, 1994. The Department was fully aware of the facts and the activities of the appellants and therefore, extended period was not invokable as the appellants being undertake intended to evade tax cannot be alleged. The services covered by the SCN cannot be classified as "operation of bank accounts" under the category of "Banking and Other Financial Services". There is no customer/client relationship between the bank and the Government. The services rendered by the bank are statutory function carried out on behalf of the

Government therefore not liable to Service Tax. The learned Commissioner failed to appreciate the fact that the services were exempted by Notification No. 6/2006- ST dated 01.03.2006. The learned counsel for the appellants has relied upon the case of ***Canara Bank - 2012 (28) STR 369 (Tri. Ahmdebad)*** and he further submitted that the issue is squarely settled by the Larger Bench. In the case of Canara Bank cited supra, they are entitled for relief by setting aside the impugned order.

3. The learned AR has reiterated the findings of the OIO.

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

5. We find that the Tribunal in the case of Canara Bank cited supra has observed that

*"it can be seen that RBI have the right to transact Government business and allow any agent to perform its function; from the agreement also, it is quite clear that the Canara Bank have been appointed as an agent. We find that the decision of Hon'ble Supreme Court on this issue in the case of* ***State of Madras Vs. Cement Allocation Co-ordinating Organization- 1971 (2) SCSS/587 & Manu/SC/0636/1997*** *as quoted by the learned counsel for the Chartered Accountant would be applicable to the facts and the circumstances of the case".*

*"The Hon'ble Tribunal observed that the observations of the Hon'ble Supreme Court make it clear that exemption available to the principal would be available to the agent also. For this purpose, since the agent is liable for the exemption which is available to the principal in terms of relationship with the principal of the agent and not because of exemption granted specifically to the agent or principal, we have to hold that the appellant is eligible for exemption. If RBI were to undertake the activity there would have been no question of levy of Service Tax. It was also brought to our notice that RBI is not paying Service Tax. Same functions being carried out by RBI are exempted. Therefore, we hold that the benefit of exemption available to RBI would be available to the agent i.e. Canara Bank. The services are in the nature of statutory/sovereign functions and hence not liable to Service Tax".*

6. We find that the issue is squarely covered by the above judgment; therefore, we have no doubt in holding that the appellants are working as an agent of RBI in the discharge of sovereign functions, therefore, whatever exemption is applicable to RBI, that should also be applicable to the appellants who are working as an agent in the discharge of statutory/sovereign functions.

7. In view of the above, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative portion of the Order was pronounced
in Open Court on **02/08/2018**)

**P. ANJANI KUMAR**
**TECHNICAL MEMBER**

**S.S GARG**
**JUDICIAL MEMBER**

Parveen...