CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 544 of 2009

(Arising out of Order-in-Revision No. 03/2009 dated 19/03/2009 passed by Commissioner of Central Excise, Customs & Service Tax, Calicut)

M/s Sitaram Trading Company
Kunnathupeedika,
kottekkad,p.o.kuttur,trichur
District Kerala.
TRICHUR - 678010

Appellant(s)

VERSUS

Commissioner of Central Excise,Customs and Service Tax Calicut
CENTRAL REVENUE BUILDING,
MANANCHIRA, CALICUT,
KOZHIKODE, - 673001
KERALA

Respondent(s)

Appearance:

Smt. L.Maithili, Advocate
8/1, Century Court, Kasthuri Estate 2nd Street, Poes Garden, Chennai 600 086 — For the Appellant

Sh. P.Gopakumar, Joint Commissioner (AR) — For the Respondent

CORAM:
HON'BLE MR. ANIL CHOUDHARY, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20194 / 2020

Date of Hearing: 17/02/2020
Date of Decision: 17/02/2020

Per : ANIL CHOUDHARY

Heard the parties.

2. The issue involved in this appeal is whether the appellants have been rightly subjected to tax on the reimbursement of expenses received by them from Hindustan Unilever Ltd, for which they are working as a C&F Agent.

3. The items of dispute in this appeal are receipt of various amounts under the accounting Heads 'Miscellaneous Bill', 'Inter-depot Transportation Freight' and 'Loading and Unloading'.

4. The Learned Counsel for the appellant has taken us through some of the vouchers/slips raised on the principal, and also taken us to some of the clause of the Agreement dated 04.01.2002, between the appellant and the Hindustan Unilever Ltd, wherein there is a provision for reimbursement of certain expenses incurred by the appellant, that is mentioned in the Para 5 of the Agreement. Learned Counsel further points out that these amounts have been clubbed with the taxable service i.e. C&F Agent. This issue has been settled by the Hon'ble Supreme Court in the case of *UOI Vs Intercontinental Consultants and Technocrats Pvt. Ltd., 2018 (10) GSTL 401 (SC).* The learned Counsel further points out that three SCNs on the same issue has been decided by the common adjudication order. Subsequent two SCNs dated 19th October 2005 and 17th October 2006 are on invocation of extended period of limitation. In view of the earlier SCN dated 19th October 2005 on the same issue, which was also issued by invoking the extended period of limitation.

5. Learned Authorized Representative for the Revenue relied upon the impugned order.

6. Considering to the fact and circumstances of the case, we hold that the subsequent SCNs are bad for invocation of extended period of limitation, being SCNs dated 19th October 2005 and 17th October 2006. So far as SCN dated 29th June 2005 is concerned, the same is remanded to the adjudicating authority for re-determination of the tax liability after going through the evidences produced or now produced by the assessee and also taking into consideration the ruling of Hon'ble Supreme Court in the case of *UOI Vs Intercontinental Consultants and Technocrats Pvt. Ltd* (supra).

7. Accordingly, the appeal is allowed by way of remand. The appellant is directed to appear before the original adjudicating authority with a copy of their representation and a copy of the order of this Tribunal, along with evidences, to seek opportunity of hearing.

((Dictated and pronounced in open court)

(ANIL CHOUDHARY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

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