CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 20093 of 2018

[Arising out of Order-in-Appeal No. 319/2017-CT dated 11/10/2017 passed by the Commissioner of Central Tax (Appeals-II), Bangalore North.]

M/s. Triumph India Software Services Pvt Ltd
No.22 D, Rajgopal Road,
Sanjay Nagar,
BANGALORE – 560 094.
KARNATAKA

Appellant(s)

VERSUS

Commissioner of Central Tax, Bangalore North
No.59, HMT Bhawan
Ground Floor, Bellary Road
BANGALORE – 560 032.
KARNATAKA

Respondent(s)

AND

Service Tax Appeal No. 20094 of 2018

[Arising out of Order-in-Appeal No. 319-320/2017-CT dated 11/10/2017 passed by the Commissioner of Central Tax (Appeals-II), Bangalore North.]

Mrs.Usha Mohan,
Managing Director
M/s. Triumph India Software
Services Pvt. Ltd.
No.22 D, Rajgopal Road,
Sanjay Nagar,
Bangalore – 560 094.

Appellant(s)

vs.

Commissioner Of Central Tax, Bangalore North
No.59, HMT Bhawan
Ground Floor, Bellary Road
BANGALORE – 560 032.
KARNATAKA

Respondent(s)

Appearance:

Shri Venkata Subbarao Kalva, Resolution Professional (Official Liquidator for the Appellant.

Shri Dyamappa Airani, Deputy Commissioner, Authorised Representative for the Respondent.

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER JUDICIAL

Final Order No. 20013-2014 / 2023

Date of Hearing: 06/02/2023

Date of Decision:__________

Per : P. A. AUGUSTIAN

Appellant was engaged in 'Technical Writing and Documentation Services' and were having major customers. Department alleged that they have not discharged the service tax liability of Rs.31,23,376/- during the period of April 2013 to March 2014. It is also alleged that they have not filed ST-3 Returns during the period. During investigation, Managing Director of the appellant-company Smt. Usha Mohan admitted that due to financial problems they could not discharge the service tax liability from April 2013 to March 2014 and they have also not filed ST-3 Returns for the said period. The matter was considered by the lower authorities and found that allegations are sustainable and rejected the appeal filed by the appellant i.e., M/s. Triumph India Software Services Pvt. Ltd. Regarding the appeal filed by the Managing Director Smt. Usha Mohan, the appellant herein in Appeal No.ST/20094/2022, the original authority imposed a penalty of Rs.1,00,000/- and the same was reduced to Rs.50,000/- by the appellate authority. Hence, these two appeals.

2. During the pendency of the appeal, the counsel appearing on behalf of the appellant M/s. Triumph India Software Services Pvt. Ltd. (Appeal No.ST/20093/2018) submitted that appellant is no longer existing and hence the stopped functioning in 2018. Resolution Professional

Mr. Venkata Subbarao Kalva was appointed as Official Liquidator. Based on the submissions, notice was issued to Official Liquidator Mr. Venkata Subbarao Kalva and today, when the matter was taken up for hearing, he appeared and submitted that the claim of the respondent is duly considered by the proper authority and he has also placed on record a copy of the order dated 4.12.2020 issued by National Company Law Tribunal, Bangalore Bench. As per Para 2 of the said order, claims of respondent for Rs.31,32,859/- is being considered.

2.1 Regarding appeal No. ST/20094/2018, Smt. Usha Mohan, Managing Director of the appellant-company, appeared in person and submitted that she was the Managing Director of the Company at the relevant time. Due to financial difficulties, they could not pay service tax as submitted during investigation. Regarding the appellant's responsibility to submit returns, the appellant submitted that though she was the Managing Director of the Company she was not personally looking after the submission of returns and other day-to-day financial activities of the company at the relevant time.

3. I have gone through the records of the case and after considering the submissions made by the Official Liquidator, appeal filed by M/s. Triumph India Software Services Pvt. Ltd. (Appeal No.ST/20093/2018) is dismissed.

3.1 Considering the facts and circumstances of the case and on going through the liquidation proceedings, I am reducing the penalty imposed on the appellant Smt. Usha Mohan, Managing Director of Triumph India Software Services Pvt. Ltd. from Rs. 50,000/- to Rs.10,000/- (Rupees Ten Thousand Only). Appeal No.ST/20094/2018 is partially allowed by modifying the penalty.

4. In the result, Appeal No.ST/20093/2018 is dismissed and Appeal No.ST/20094/2018 is partially allowed.

(Order pronounced in the Open Court on **10.02.2023**.)

P. A. AUGUSTIAN
MEMBER JUDICIAL

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