CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

DIVISION BENCH
COURT NO. I

APPEAL NO. ST/367/2010-DB

[Arising out of Order-in-Review No. 13/Ldh/2009 dated 24.12.2009 passed by the Commissioner of Central Excise, Ludhiana]

Date of hearing/decision: 07.05.2018

For approval and signature:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Devender Singh, Member (Technical)

Mohindra Brothers Advertisers	:	**Appellant(s)**
VS		
C.C.E., Ludhiana	:	**Respondent(s)**

Appearance:
Present for the Appellant(s): Mr. Poojan Malhotra, Advocate
Present for the Respondent(s): Mr. Tarun Kumar, A.R.

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Devender Singh, Member (Technical)

FINAL ORDER NO. 62315/2018

Per : Ashok Jindal

The appellant is in appeal against the impugned order dt. 24.12.2009.

2. Brief facts of the case are that the appellant is a proprietor concern and engaged in the activity of painting on walls, banners, sign boards, flags etc. as per designs supplied by the customers. A show cause notice dt. 12.04.2005 was issued to the appellant to demand service tax alleging that appellant is providing advertisement

services to their clients. The said proceedings was dropped by the adjudicating authority vide order dt. 31.12.2007, but by exercising the powers under Section 84 of the Finance Act, 1994, the Ld. Commissioner issued a show cause notice on 28.10.2009 to the appellant and the order of the adjudicating authority was set aside. Aggrieved from the said order, the appellant has filed this appeal before us.

3. Ld. Advocate for the appellant submits that revision power of the Commissioner was withdrawn w.e.f. 19.08.2009 and admittedly the show cause notice was issued to the appellant under Section 84 of the Act on 28.10.2009, therefore, the show cause notice is not sustainable.

4. Heard the parties.

5. Considering the fact that the show cause notice dt. 28.10.2009 issued under Section 84 of the Finance Act, 1994 after the power of revisions was withdrawn on 19.08.2009. Therefore, in that circumstance, relying on the decision of this Tribunal in the case of ***Securitrans India (P) Ltd. vs. CST, Delhi – 2017 (49) STR 307 (Tri.-Delhi)***, wherein this Tribunal has held as under:

> *"**5**. Heard both sides and perused the records. A reference to Finance (No.2) Act, 2009, reveals that Section 84 of the Finance Act, 1994 has been substituted w.e.f. 19.08.2009. It is a fact that till the date of substitution, Section 84 provided the powers of revision to the Commissioner. It empowered Commissioner to call for the records of any proceeding in which an adjudicating authority [subordinate to him has passed a decision or order. The Section further empowers the Commissioner to pass orders in revision after] due*

> *process of law. However, it is seen that such revision powers had been replaced by the power to review w.e.f. 19.08.2009. The show cause notice has been issued under the erstwhile Section 84 on 23.03.2010. On such date the Commissioner did not enjoy the powers of revision inasmuch as the Section 84 has been replaced on 19.08.2009. Consequently, I find that the Commissioner did not enjoy the powers of revision while issuing the show cause notice and hence the impugned order has been passed without jurisdiction."*

We hold that the Ld. Commissioner has no power to issue show cause notice to the appellant after 19.08.2009, therefore, the proceedings against the appellant are not sustainable. Accordingly, the impugned order is set aside.

6. In result, the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the open court)

(Devender Singh)
Member (Technical)

(Ashok Jindal)
Member (Judicial)

RAS'