CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. ST/60563/2018-[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-315-18 dated 21.02.2018 passed by the Commissioner (Appeals), Ludhiana)

Sat Guru Infotech ......**Appellant**
(C-127, Phase 8, S.A.S. Nagar, Mohali, Punjab)

VERSUS

Commissioner of C.E. & S.T., Ludhiana ......**Respondent**
(Central Excise House, F Block, Rishi Nagar, Ludhiana, Punjab)

APPEARANCE:

Mr. Vikrant Kackria, Advocate for the Appellant

Mr. Tarun Kumar, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60604/2019

DATE OF HEARING: 29.05.2019
DATE OF DECISION: 29.05.2019

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order, wherein demand of service tax under the category of "Renting of Immovable Property Service" has been confirmed for the period 01.04.2009 to 31.03.2010 by way of the show cause notice dated 11.10.2013.

2. The learned Counsel appearing on behalf of the appellant submits that during the impugned period, the levy of service tax under the category of "Renting of Immovable Property Service" was held ultra virus by the Hon'ble Delhi High Court in the case of Home Solution Retail India Ltd – 2009 (237) ELT 209 (Del.). Thereafter, on 11.05.2010, a retrospectively amendment was made and the levy of

the service tax was affirmed. Thereafter, the show cause notice has been issued on 11.10.2013 by invoking the extended period of limitation is barred by limitation. As during the impugned period, there was no levy of service tax, therefore, extended period of limitation is not invokable.

3. On the other hand, the learned A.R. submits that the appellant has admitted their liability and paid the service tax thereof. Further the learned Commissioner (Appeals) has given the benefit under Section 80 of the Finance Act, 1994, no penalty is imposable on the appellant. In that circumstance, the appellant has rightly paid the service tax.

4. Heard the parties and considered the submissions.

5. It is the fact on record that during the impugned period, there was no levy of service tax under the category of "Renting of Immovable Property Service". The amendment came on 11.05.2010, which is after the impugned period. Although, the said amendment is applicable retrospectively but within one year of the said amendment. The show cause notice was not issued to the appellant within one year of the amendment dt. 11.05.2010. The same was issued on 11.10.2013, which is beyond the period of one year from 11.05.2010. In that circumstance, I hold that the show cause notice, issued to the appellant, is beyond the period of limitation of one year. Therefore, I hold that the demand of service tax confirmed against the appellant is barred by limitation. In these circumstances, I set aside the impugned order qua demand of service tax.

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

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

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