CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH
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REGIONAL BENCH – COURT NO. 1

Appeal No. ST/61104/2018

[Arising out of OIA No. LUD-EXCUS-001-APP-959-18 dated 19.04.2018 passed by the Commissioner (Appeals) of Central Goods and Service Tax, Ludhiana]

Punjab State Power Corporation Ltd. : **Appellant (s)**
(Now M/s Punjab State power corporation Ltd, SR
Civil MTNS DIVI-2 66-KV, GRID Colony, PSEB
Near Bus Stand, Patiala

Vs

CCE- Ludhiana : **Respondent (s)**
Commissioner, Goods and Service Tax, Commissionerate
GST Bhawan F Block, Rishi Nagar, Ludhiana

APPEARANCE:
Shri Vikrant Kackaria, Advocate for the Appellant
Shri Vijay Gupta, Authorised Representative for the Respondent

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

FINAL ORDER No. 60918 / 2019

Date of Hearing/Decision:31.10.2019

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order wherein the demand of service tax has been confirmed against them on the ground that as appellant did not pay service tax, therefore, they are liable to pay service tax.

2. The facts of the case are that the appellant received certain services under works contract from a contractor and as per Notification No. 30/2012 dated 20.06.2012 in respect of the service received by the appellant 50% of the service tax is to be paid by the service provider and balance 50% of the service tax is to be paid by the appellant. But during the impugned order, the appellant reimbursed the total amount of service tax to the service provider who paid the entire service tax.

3. The case of the revenue is that it is immaterial whether the service provider paid 100% service tax or not. As per Notification No.
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30/2012 dated 20.06.2012, the appellant is required to 50% of the service tax, therefore, the proceedings were initiated to the appellant to demand service tax. The demand of service tax was confirmed and penalty was also imposed. Against the said order, the appellant is before me.

4. The Ld. Counsel for the appellant submits that in similar circumstances in the case of ***Additional S.R. TLSC Division vs. Commissioner, CGST Ludhiana vide Final Order No. 63244/2018 dated 05.10.2018*** this Tribunal set-aside the adjudication order, therefore, the impugned order is to be set-aside.

5. On the other hand, the Ld. AR reiterated the findings of the impugned order.

6. Heard the parties and considered the submissions.

7. Considering the fact that in the case of ***Additional S.R. TLSC Division (supra)*** this Tribunal has examined the issue and observed as under:-

> *"5. It is not in dispute that on the service received by the appellant, whole of the service tax has been paid by service provider. Although service provider was required to be 50% of the service tax but paid 100%, therefore, in the light of the decision of this Tribunal in the case of Katrina R. Turcottee reported in 2013 (31) STR 670 (Tri. Ahmd.), wherein it has been held that if service tax has been paid on behalf of the assessee by third party, the same shall be treated that assesssee himself has paid service tax, therefore, as service provider has paid service tax on behalf of the appellant, the same to be deemed as the appellant paid service tax. In that circumstances, I hold that the appellant has discharged their service tax liability through service provider. Therefore, no liability of service tax arises against the appellant. In view of the above, the impugned order deserves no merits, hence, set aside."*

As the issue has already been settled in favour of the appellant in the case of ***Additional S.R. TLSC Division (supra),*** therefore, I set-aside the impugned order and allow the appeal filed by the appellant with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.