CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

REGIONAL BENCH AT CHANDIGARH
E-HEARING
SINGLE MEMBER BENCH

Appeal No. ST/60065/2020
(Arising out OIA No.APPL/PKL/CE/109/2019 dt.10.10.2019 passed by the Commissioner (Appeals), CGST, SCO- 407-408, Sector 8 Panchkula, Haryana**)**

M/s. Bhabani Pigments Pvt.Ltd. **Appellant**
(Sonepat Road, Kharkhoda, Sonepat, Haryana)

Vs.
Commissioner of CGST, Rohtak **Respondent**
(M.C.O. Sector 6, Rohtak)

Present for the Appellant: Shri Vineet Singh, Advocate
Present for the Respondent: Shri Bhasha Ram, AR

Date of hearing: 16.03.2021
Date of decision:16.03.2021

FINAL ORDER NO. 60512/2021

Per: Ashok Jindal

The appellant is in appeal against the impugned order wherein the demand of service Tax has been confirmed against the appellant for the period April, 2015 to March, 2015. Vide show cause notice dated 22.3.2018, it has been alleged that the appellant has not discharged service tax liability under reverse charge mechanism.

2. The facts of the case are that initially the show cause notice was issued to the appellant for demand of service tax of Rs.22,71,069/- under reverse charge mechanism alongwith interest and to impose penalty on the appellant and director of the appellant company. The matter was adjudicated, the demand of service tax was confirmed and the penalties were also imposed. The said order was challenged before the Commissioner (Appeals)

who reduced the demand to the extent of Rs.9,68,676/- and also imposed the penalty on the appellant and did not impose penalty on the director. Against the said order, the appellant is before me.

3. Ld. Counsel for the appellant submits that the appellant has paid service tax under reverse charge mechanism in time during the period and the same has been reflected in their ST-3 returns. Both the authorities below have ignored the facts. Therefore, the demand is not sustainable at all.

4. On the other hand, Ld.AR submits that as both the authorities below have not considered the facts, therefore the matter is required to be remanded.

5. Heard the parties.

6. Considering the fact that the lower authorities have deliberately ignored the fact that the appellant has deposited the amount in time which shows that unnecessarily the appellant has dragged into litigation before this Tribunal as the ld. Commissioner (Appeals) in the impugned order has observed as under:-

> *"The second issue on which the department had raised the demand of Service tax on Works Contract Service under RCM is not based on documentary evidence and department deliberately ignored the factual facts only for the sake of raising the impugned demand."*

7. In the circumstance, I hold that that as the appellant has deposited service tax in time which has been reflected in ST-3 return and the impugned order has been passed without considering the ST-3 returns, therefore, there is gross violation of principle of natural justice. In the circumstance, I set aside the

impugned order and allow the appeal with consequential relief, if any.

8. In these terms, the appeal is disposed of.

(dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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