IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

(Arising out of Order-in-Appeal No. 82/2010 dated 30.3.2010 passed by the Commissioner of Central Excise (Appeals), Chennai)

ST/CO/30/2010 and ST/366/2010

Commissioner of GST & Central Excise
Chennai South Commissionerate — Appellant

Vs.

M/s. AVM Film Studios — Respondent

ST/388/2010

M/s. AVM Film Studios — Appellant

Vs.

Commissioner of GST & Central Excise
Chennai South Commissionerate — Respondent

Appearance

Shri K. Veerabhadra Reddy, JC (AR) for Revenue
Ms.Cynduja Crishnan, Advocate for the Assessee

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **24.04.2018**

Final Order Nos. **41313-41314 / 2018**

Per Bench

The assessees were engaged in letting out their studio for the purpose of film shooting. They were discharging service tax under the category of renting of immovable property service for the said category with effect from 1.6.2007. Department was of the view that for the period 1.4.2005 to 31.3.2007, the assessees are liable to pay service tax under the category of Video Tape Production Service. Show cause notice was issued proposing to demand service tax along with interest and for imposing penalties. After due process of law, the original authority confirmed the demand, interest and imposed penalties. In appeal, Commissioner (Appeals) upheld the demand, interest but however set aside the penalties. Aggrieved by the demand and interest, the assessee has filed Appeal No. ST/388/2010 and the department being aggrieved with the setting aside of penalty has filed appeal No. ST/366/2010.

2. On behalf of the assessee, ld. counsel Ms. Cynduja Crishnan submitted that the issue stands covered by the decision rendered in the assessee's own case vide Final Order No. 43507/2017 dated 19.12.2017 wherein the Tribunal has held the issue in favourof the assessee.

3. The ld. AR Shri K. Veerabhadra Reddy reiterated the findings in the impugned order.

4. Heard both sides.

5. The Tribunal in the appellant's own case vide the above stated final order has analyzed the issue and arrived at the

conclusion that the activity does not fall under the category of video tape production service. Further, the assessees are also discharging service tax on the said activity under renting of immovable property service with effect from 1.6.2007. Following the said decision, we set aside the impugned order and allow the appeal filed by the assessee. Consequently, the department's appeal is dismissed and the cross-objection filed by the assessee stands disposed of.

(Operative portion of the order was
pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex