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

ST/556 - 558/2011

(Arising out of Order-in-Original No. 14-16/2011 dated 29.07.2011 passed by the Commissioner of Service Tax, Chennai).

M/s. Radaan Media Works (I) Ltd. : Appellant

Vs.

CCE & ST, Chennai : Respondent

Appearance

Shri V. S. Manoj, Advocate
for the appellant

Shri K. Veerabhadra Reddy, JC (AR)
for the Respondent.

CORAM:

Hon'ble Shri V. Padmanabhan, Member (Technical)
Hon'ble Shri P. Dinesha, Member (Judicial)

Date of Hearing/Decision: **01.06.2018**

FINAL ORDER No**.** **41705-41707/2018**

Per: V. Padmanabhan

The present appeals challenge the Order-in-Original No. 14-16/2011 dated 29.07.2011.

2. The appellant is registered under the category of "TV or Radio production Programme Service and Sale of Space or Time for Advertisement service". The appellant produced serials and assigned the copy right absolutely and permanently to various channels. The serials produced by the appellant were telecast through various channels. For this purpose, the appellant paid telecast fees to the TV channels to obtain free commercial time from the broadcaster which was being sold to various advertisement agencies and on the consideration received by the appellant, they discharged service tax and availed Cenvat credit of such service tax paid and utilized the same for payment of service tax on the telecast fees. The department was of the view that the appellant will be not entitled to avail the Cenvat credit in question since the telecasting of the serials occurs after the production of the serials. After issue of SCN, the adjudicating authority demanded service tax with interest and penalties, during the period October 2007 to September 2010. Aggrieved by the decision, the present appeal stands filed.

3. In this connection, heard the Ld. Advocate, Shri V. S. Manoj for the appellant, who submits that the identical issue for the same appellant had come up before the Tribunal and the Tribunal vide Final Order No. 40341/2018 dated 06.02.2018 was pleased to set aside the impugned order and allowed the Credit.

4. The Ld. DR justified the order passed by the lower authority. He specifically reiterated the paras 5.2 to 5.4 of the impugned order.

5. We have gone through the cited final order passed by the very Bench of the Tribunal in which one of the issues discussed and decided is identical in the present appeals. The Tribunal has decided the issue by observing as under:-

> "7. The third allegation is wrongful availment of credit on service tax paid input services. For broadcasting serials /programme produced by them, the appellant has to pay telecast charges to the broadcasting agency. In consideration of telecasting their programme, the appellant receives free time slots from the broadcasting agency. Using this free time slot, the appellant generates revenue by indulging in 'Sale of space or time for Advertisement' services. The Revenue alleges that service tax paid on telecast fees cannot be considered as input service for the output service of programme producing service and 'sale of space or time of advertisement' services. We are afraid that we cannot concur with this view made by the Ld. A.R. Without telecasting programmes, the appellant will not get the free time slots. Without obtaining the free time slots appellant will not be able to provide output service of 'Sale of space or time for Advertisement' services. Thus, the telecasting charges paid are used for providing the said output service of 'Sale of space or time for Advertisement'. We have already found that the appellant is not liable to discharge service tax under the category of programme producing service. The contention of the department that

programmes are telecast after production of the serials etc. is flimsy and not supported by any legal basis. From the above, we conclude that the disallowance of input service credit is unjustified and requires to be set aside, which we hereby do.

6. By following the above final order, we set aside the impugned orders and allow the appeals.

(Order dictated and pronounced in the open Court)

(P. DINESHA)
MEMBER (JUDICIAL)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

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