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

ST/MISC/41138/2017 & ST/9/2012

(Arising out of Order-in-Origina. No. 107/2011 dated 08.12.2011 passed by the Commissioner of Central Excise, Commissionerate-II, Chennai).

M/s. Invensys India Pvt. Ltd. : Appellant

Vs.

CCE & ST, Chennai : Respondent

Appearance

Shri T.R. Ramesh, Advocate,
for the Appellant

Shri R. Subramaniyam, AC (AR)
for the Respondent.

CORAM :

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

Date of Hearing/Decision: **25.06.2018**

FINAL ORDER NO. 41916 /2018

Per Bench

After hearing both sides, we find that the dispute revolves on whether the explanation to Rule 6 (1) of the Service Tax Rules, 1994, which was introduced with effect from 10.05.2008, would be retrospective or otherwise. For the transactions for the period after 10.05.2008, the appellants had paid service tax since the said transaction was entered into the books of accounts. The department took the view that the assessee should also have to discharge service tax liability on the amount of Rs. 4,88,31,324/- shown as payable to their holding Company towards import of technical services as on 10.05.2008. The impugned order dated 08.12.2011 demanded an amount of Rs. 53,21,408/- with interest on this score and also imposed penalty.

2. We find ourselves in agreement with the Ld. Counsel's assertion that the issue now stands settled by various judgments that the said amendment would only operate retrospectively. The reliance of the Ld. Counsel on the judgment of the Hon'ble High Court of Delhi in the case of *The Principal Commissioner of GST, Delhi Vs. McDonalds India Pvt. Ltd*. – 2018 (8) GSTL 25 (Del.) fully supports the case of the appellants.

3. We find that the ratio laid down by the Hon'ble High Court of Delhi will apply to the facts of this appeal also. Accordingly, the impugned order is set aside and the appeal allowed with consequential reliefs, if any.

4. The miscellaneous application seeking change of cause-title of the respondent is filed by the department due to change in jurisdiction and address of the respondent. The present jurisdiction and address of the respondent is as follows:-

The Commissioner of GST & Central Excise,
Chennai South Commissionerate,

MHU Complex, 692, Anna Salai,
Nandanam, Chennai – 600 035.

Accordingly, the miscellaneous application is allowed and the jurisdiction and address of the respondent is changed from CST, Chennai to The Commissioner of GST & Central Excise, Chennai South Commissionerate.

7. Appeal disposed of in above terms. The miscellaneous application for change of cause title also stands disposed of.

(Order dictated and pronounced in the open Court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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