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

Appeal No.ST/734/2010

[Arising out of Order-in-Original No.LTUC/262/2010 (C) dt.25.08.2010 passed by Commissioner of Central Excise & Service Tax, LTU, Chennai]

Alstom T & D India Ltd. — Appellant

Versus

Commissioner of Central Excise & ST
LTU, Chennai — Respondent

Appearance :

Shri Jopeph Prabhakar, Advocate
For the Appellant

Shri A. Cletus, ADC (AR)
For the Respondent

CORAM :

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

Date of hearing / decision : 23.07.2018

FINAL ORDER No. 42108 / 2018

Per Bench

After hearing both sides, we find that the first issue concerns whether appellants would be eligible for abatement in respect of civil works as part of the contracts entered into with NTPC on their contention that separate up value is given for the same. We find that identical issue in respect of the same appellant has been addressed by the Tribunal in a recent decision of CESTAT Chennai reported in 2018-VIL-385-CESTAT-CHE-ST wherein the order denying abatement in respect of the impugned civil contract was set aside and abatement allowed under Notification No.1/2006-ST. We do not find any reason or grounds to deviate from the said ratio. Accordingly, following the said decision, we find in favour of the appellant on this issue.

2. The second issue is concerning non-discharge of service tax liability in respect of transportation services availed by them. The SCN had proposed demand of Rs.1,70,627/- on this score. We find from 21.2 of SCN dt. 26.4.2009 that this liability stands paid up by appellant before issue of SCN. So also, we find from para 21.3 of SCN it is seen that an amount of Rs.47,555/- towards interest has been paid by appellant before issue of SCN. Ld. Advocate has submitted that non-discharge of service tax liability when it became due was only on account of the fact that they were under the belief that service recipient being NTPC was required to pay the same. Taking into consideration all these mitigating factors, penalty imposed on this score is set aside.

3. In the event, impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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