

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI
[COURT : Single Member 3 B3]**

Appeal No.: ST/42218/2017

[Arising out of Order-in-Appeal No. 172/2017 dated
26.07.2017 passed by the Commissioner of G.S.T. &
Central Excise (Appeals), Coimbatore]

M/s. Atna Technologies India (P) Ltd., : **Appellant**
K.R.V. Towers, No. 30 Senguptha Street,
Ramnagar, Coimbatore – 641 009

Versus

The Commissioner of G.S.T. & Central Excise, : **Respondent**
Coimbatore Commissionerate

Appearance:-

Shri. M. Saravanan, Consultant
for the Appellant
Shri. L. Nandakumar, AC (AR)
for the Respondent

CORAM:

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

Date of Hearing/Decision: **17.12.2018**

Final Order No. 43129 / 2018

This appeal has been filed by the assessee/appellant against the impugned Order-in-Appeal No. 172/2017 dated 26.07.2017 passed by the Commissioner of G.S.T. & Central Excise, Coimbatore. The period of dispute is from April 2009 to March 2014.

2.1 Briefly stated, the appellant is engaged in providing taxable services under the category of 'Information Technology Software

Services', 'Sponsorship Services and 'Management or Business Consultant Services'. Subsequent to the investigation by Departmental Officers and perusal of records of the assessee, it was appeared to the Department that the appellant had not obtained proper registration Certificate, not fulfilled the conditions for export of services, suppressed taxable value, not paid service tax on import of services and wrongly availed CENVAT Credit.

2.2 Accordingly, the appellants were served with a Show Cause Notice on 17.10.2014 and after due process of law, the Original Authority vide Order-in-Original dated 17.02.2016 confirmed the demand of Service Tax to the tune of Rs. 3,03,832/- under Section 73(2) of the Finance Act, 1994 and recovery of wrongly availed Credit to the tune of Rs. 79,304/- along with applicable interest and penalties. On appeal before the first appellate authority, the Commissioner (Appeals) vide Order impugned herein rejected the appeal so filed thereby upholding the Order-in-Original passed by the adjudicating authority. Aggrieved by the same, the appellant has come in appeal before this forum.

3. Today when the matter came up for hearing, Ld. Consultant Shri. M. Saravanan appeared on behalf of the assessee/appellant

while Ld. AC (AR) Shri. L. Nandakumar appeared on behalf of the Department/respondent.

4. During the course of hearing, Ld. Consultant for the appellant submitted that the appellant had furnished all necessary documentary evidences as also the re-conciliation statements in response to the very Show Cause Notice and the same was also filed along with the written submissions during adjudication proceedings. He further submitted that he has no objection even if the matter is remanded for fresh adjudication since the impugned Order is a non-speaking Order.

5. *Per contra*, Ld. AR for the Revenue agreed to *de novo* adjudication since there is no finding with regard to the documents furnished by the appellant.

6. I have considered the rival contentions and perused the documents placed on record.

7. I find from a perusal of the impugned Order that the impugned demand is raised on the ground that the appellant had not furnished any supporting evidence in the form of documents. However, Ld. Consultant submitted that the appellant had furnished all such necessary documents as well as the reconciliation statements in this regard. On considering the arguments advanced, I

am of the view that the matter has to be adjudicated afresh by the adjudicating authority since he has not given any finding on the documentary evidences furnished nor has he denied the production of such evidences. Therefore, in the interests of justice, he shall pass a *de novo* adjudication Order after giving reasonable opportunities to the appellant and after considering all such submissions/documents; and then pass a speaking Order in accordance with law. All the contentions are left open.

8. The issue involved is undoubtedly an interpretational one and the appellant had also submitted sufficient documentary evidences in its support. Hence, in view of the same, I am of the opinion that there is no scope for levying any penalty, for which reason the penalty is deleted.

9. The appeal is treated as partly allowed on the above terms.

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

(P. Dinesha)
Member (Judicial)

Sdd