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

ST/672/2010

(Arising out of Order-in-Appeal No. 62/2010-ST dated 21.07.2010 passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals), Coimbatore).

State Bank of India — Appellant

Vs.

CCE, ST, Coimbatore — Respondent

Appearance

Ms. A. Sivaranjani, Advocate
for the appellant

Shri Arul C. Durairaj, Supdt. (AR)
for the Respondents

CORAM :

Hon'ble Smt. ARCHANA WADHWA, JUDICIAL MEMBER
Hon'ble Shri B. RAVICHANDRAN, TECHNICAL MEMBR

Date of Hearing/Decision: **19.12.2017**

FINAL ORDER No. 43262 **/2017**

Per: Archana Wadhwa

The short point required to be decided in the present appeal is as to whether the appellant is liable to pay service tax in respect of share of profit earned by distribution from the parent department of their Head office at Kolkatta.

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2. Both sides agreed that the issue stands covered by the precedent decision of the Tribunal in the same assessee's case vide Final Order No. 42602/2017 dated 3.11.2017. It stands recorded as under:-

> "4. Heard both sides. On going through the records, we find that in the SCN, the amount received is stated as profit shared from the Head office foreign department branch housed at Calcutta. Even in the accounts, the said amount is not shown as a commission received from the head office and it is shown merely as profit earned from the head office. So also, the department has not been able to establish that any activity was done by the appellant on which the appellant has received a commission from foreign exchange broking etc. Further, the appellant has also made out a case on limitation since being a Public Sector Undertaking, the appellant has been maintaining proper accounts and pursuant to audit had disclosed all details on 17.4.2006 itself. Thus the SCN alleging suppression of facts is without any basis and therefore we find that the appeal succeeds both on merits as well as on the ground of limitation. Impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law."

3. In as much as the same issue is involved in the present appeal, by following the above referred order, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

(Order dictated and pronounced in the open Court on)

21/12/17

(B. RAVICHANDRAN) 21/12/17.
TECHNICAL MEMBER

(ARCHANA WADHWA)
JUDICIAL MEMBER

BB

Customs, Excise & Service Tax Appellate Tribunal
सत्यमेव जयते

प्रमाणित प्रति / Certified True Copy
for K. S. Ramesh 11/01/18
सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर अपील अधिकारी / (CESTAT)
चेन्नै / CHENNAI