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

ST/273/2007

(Arising out of Order-in-Appeal No.42/2007 (M) (ST) dated 31.8.2007 passed by the Commissioner of Central Excise (Appeals), Chennai)

Commissioner of Service Tax, Chennai — Appellant

Vs.

M/s. Vintech Business Solutions — Respondent

Appearance

Shri K.P. Muralidharan, AC (AR) for the Appellant
Shri Joseph Prabhakar, Advocate for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

Date of Hearing / Decision: **22.06.2017**

Final Order No. 41094/2017

Per Bench

The respondents are engaged in providing maintenance and repair service and are registered with the Service Tax Department. They are authorized service provider of M/s.Xerox India Ltd., a 100% subsidiary of M/s. Xerox, USA. They claimed a flat rate of 70% of total contracted value as abatement towards cost of parts and other materials used in the course of providing maintenance and repair service. The

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department issued a show cause notice alleging that as no sale of materials have taken place, the respondents are not eligible for abatement as per Notification No. 12/2003-ST dated 20.6.2003. After due process of law, the original authority confirmed the demand along with interest. In appeal, the Commissioner (Appeals) set aside the same. Hence this appeal.

2. The learned AR Shri K.P. Muralidharan reiterated the grounds of appeal.

3. On behalf of the respondent, learned counsel Shri Joseph Prabhakar submitted that the respondents have discharged VAT / sales tax on the 70% of the total contracted value and therefore they are eligible for the abatement as per the Notification.

4. We have heard the submissions made by both sides.

5. The main allegation raised by the department is that there is no actual sale taking place and benefit of Notification No. 12/2003 is not available to the respondents. It is not disputed that the respondents have discharged the sales tax on the works contract under section 7C of TNGST Act, 1959. So also they have informed the department vide letter dated 19.3.2005 addressed to the Assistant Commissioner of Service Tax, Chennai that they have proper inventory system to arrive the value of material sold to each customer. The details of

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spare parts and consumables supplied to each customer is available and the details are maintained customer-wise and acknowledged by the customer. In view thereof, we find no ground to interfere with the order passed by the learned Commissioner (Appeals).

6. The respondents having discharged the sales tax on 70% of the contracted value, they are eligible for abatement as per the notification. The appeal is dismissed.

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

(V. PADMANABHAN)
Member (Technical)

(SULEKHA BEEVI C.S.)
Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

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