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

ST/575/2009

(Arising out of Order-in-Appeal No.43/2009 (M-ST) dated 14.8.2009 passed by the Commissioner of Central Excise (Appeals), Chennai)

M/s. G.H. Induction India Pvt. Ltd. Appellant

Vs.

Commissioner of Service Tax, Chennai Respondents

Appearance

None for the Appellant
Shri S. Govindarajan, Ac (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: **10.08.2017**

Final Order Nos. 41646/2017

Per Bench

The appellant is engaged in design, manufacture and sale of high quality induction heating equipment and had entered into an agreement with M/s. G.H. Elin International S.A. Spain for technical know-how in relation to manufacturing process.

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2. The issue is whether service tax is leviable on the appellant on the commission paid to foreign service agents under reverse charge mechanism.

3. None present for the appellant. Heard the learned AR Shri S.Govindarajan for the department.

4. We find that the period involved is prior to 18.4.2006 on which date Section 66A came to be introduced in the Finance Act, 1994. The issue whether the assesse is liable to pay service tax under reverse charge mechanism on commission / amounts paid to foreign agent stands settled in favour of the assessees in the judgment of Indian National Shipowners Association – 2009 (13) STR 235 (Bom.) which was upheld by the Hon'ble Supreme Court reported in 2010 (17) STR J57 (SC).

5. Following the above judgment, we find that the impugned order is not sustainable and the appeal is allowed by setting aside the demand including the penalties imposed.

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

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex

Customs Excise & Service Tax Appellate Tribunal

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