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

Appeal No.ST/161/2010

[Arising out of Order-in-Revision No.10/2009 ST (R) dt. 17.12.2009 passed by the Commissioner of Central Excise, Madurai]

Southern Tyres — Appellant

Versus

Commissioner of Central Excise,
Madurai — Respondent

Appearance:

Ms. Minchu Mariam Punnoose, 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 : 24.10.2017

FINAL ORDER No. 42440/2017

Per Bench

The appellants are engaged in clearing and forwarding agency services for M/s.Birla Tyres, Calcutta and they were issued a show cause notice alleging short payment of service tax on the reimbursable expenses received by them. After adjudication, original authority dropped the proceedings. However, subsequently, a show cause notice was issued invoking Section 84 of the Finance Act, 1994 by the Commissioner and by the order impugned herein, in the revisional proceedings, the Commissioner confirmed the demand along with interest and also imposed penalty. Hence this appeal.

2. At the time of hearing, on behalf of the appellant, Ld. Counsel Ms. Minchu Mariam Punnoose submitted that the issue whether service tax is leviable on reimbursement expenses such as godown rent, telephone call charges, local delivery expenses etc. incurred by the appellant while rendering the services of clearing and forwarding agents was settled by the decision in the case of *Intercontinental Consultants & Technocrats Pvt. Ltd. Vs UOI* and the same has been followed by the Tribunal in the case of *Dream Loans Vs CCE Coimbatore* – 2017-TIOL-2503-CESTAT-MAD.

3. Ld. A.R Shri A. Cletus reiterated the findings in the impugned order.

4. Heard both sides. The issue whether reimbursable expenses are includible in the taxable value of services for the purpose of levy of service tax has been settled in the judgements relied upon by the Ld. counsel for appellant. Following the same, we hold that the

Customs, Excise & Service Tax Appellate Tribunal demand is unsustainable. Impugned order is set aside and appeal is allowed with consequential relief, if any, as per law.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

Sulekha Beevi

(Sulekha Beevi C.S)
Member (Judicial)

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Customs, Excise & Service Tax Appellate Tribunal

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