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

ST/40400 - 40401/2013

(Arising out of Order-in-Appeal No. 250 & 251/2012 dated 26.10.2012 passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals), Coimbatore)

Smt. T. Chitra : Appellant

Vs.

CST, Coimbatore : Respondent

Appearance

Shri R. Bala Gopal, Advocate,
for the appellants

Shri R. Subramaniyam, AC (AR)
for the Respondent.

CORAM :

Hon'ble Ms. Sulekha Beevi, Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **14.08.2017**

FINAL ORDER No. 41688-41689/**2017**

Per Bench

The above appeals are filed against the demand of service tax, interest thereon and penalties imposed. The appellant is a proprietary concern registered with service tax department under the category of 'Manpower Recruitment and Supply Services'. Two Show Cause Notices dated 14.03.2011 and 20.10.2011 were

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issued for non-payment of service tax and after due process of law, the original authority confirmed the demand for the different periods along with interest and also imposed penalties. In appeal, the Commissioner (Appeals) upheld the same. Hence these appeals.

2. At the time of hearing, the Ld. Consultant, Shri R. Balagopal, appearing for the appellant submitted that the appellant is not contesting the liability to pay service tax in these appeals and prays that the penalties may be set aside. He submitted that the business was run by the husband of the appellant and after his demise the appellant herein was unable to carry on the business. She faced much financial difficulties and was not able to pay the dues. Later her son took over the business and thereafter, the service tax portion has been paid; that they paid substantial part of the demand. He prayed that the delay in paying the service tax was only due to the sudden death of husband of appellant and the resultant financial difficulties. That the penalties may be waived.

3. The Ld. AR, Shri R. Subramaniyam, AC, reiterated the findings in the impugned order. He argued that the penalties imposed are legal and proper.

4. Heard both sides.

5. The appellant is contesting only the penalties imposed. The Ld. Consultant has put forward the circumstances by which the appellant failed to discharge the tax liability. It is also submitted

that the appellant has paid Rs. 18,62,390/-. In such circumstance, taking into consideration the peculiar facts of this case, we are of the view that appellant has put forward reasonable cause for non-payment of service tax. We hold that the penalties imposed under Section 76 and 78 are set aside, without disturbing any penalty imposed under Section 77 of the Act ibid.

6. In the result, the impugned orders are modified to the extent of setting aside the penalties imposed without disturbing the demand of service tax or interest thereon or the penalties imposed under Section 77 of the Finance Act, 1994. The appeals are partly allowed in above terms.

(Operative part of the Order pronounced in the open Court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

Sulekha Beevi

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

BB

Customs, Excise & Service Tax Appellate Tribunal

सत्यमेव जयते

प्रमाणित प्रति / Certified True Copy

सहायक पंजीकार / Asst. Registrar
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अपील अधिकरण / (CESTAT)
चेन्नै / Chennai