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

ST/51/2011

(Arising out of Order-in-Original No. 14/2010 dated 29.10 .2010 passed by the Commissioner of Central Excise, Commissionerate-III, Chennai).

M/s. Bay Container Terminal Pvt. Ltd. — Appellant

Vs.

CCE, & ST, Chennai — Respondent

Appearance

Shri G. Thangaraj, Advocate
for the Appellant

Shri K.P. Muralidharan, AC (AR),
for the Respondent

CORAM :

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

Date of Hearing/Decision: **20.12.2017**

FINAL ORDER No. 43447 **/2017**

Per: B. Ravichandran

The only point of dispute in the present appeal is entitlement of the appellant for exemption under Notification No. 12/2003 dated 01.07.2003.

2. The appellants are engaged in providing 'Repair and Maintenance Service' with reference to damaged sea containers

meant for International Goods Transport. The repair work undertaken by the appellants is with reference to the containers which are covered by the Customs Bond intended for re-export. The lower authority denied the exemption on the material part on the ground that no supporting evidence of sale of goods during the course of providing such repair service by the appellants.

3. The claim of the appellants was supported by the invoices raised by them. In fact, ~~that~~ such invoices for repair charges indicate along with details of the container numbers, labour amount and material amount separately in US$. The service tax payable on the services (labour amount) is also indicated.

4. The Ld. AR contested that the evidence of purchase of such materials along with the supply to the service recipient with full details are lacking. We note that the invoices produced sufficiently indicate the complete details of service and materials undertaken. In fact, the entry of materials used is also can be seen from the illustrated invoices submitted. In this connection, we also note the clarification issued by the Board dated 22.09.2013 referring to the very same notification and the decision of the Hon'ble Supreme Court in Jain Brothers reported as 2012 (28) STR 162 (S.C.), to state that the cost of goods supplied during repair cannot be added to the value of the taxable service in view of the said exemption. The Ld. Advocate brought to our notice that in the appellant's own case in two other units in Tuticorin and Cochin, Revenue dropped the demands on the very same issue which reached the finality.

5. In view of the above analysis, we find no merit in the impugned order. Accordingly, the same is set aside and the appeal is allowed.

(Order dictated and pronounced in the open Court)

(B. RAVICHANDRAN) 22/1/18
TECHNICAL MEMBER

(ARCHANA WADHWA)
JUDICIAL MEMBER

BB

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy
28/02/18
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