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

ST/00552/2010

[arising out of Order-in-Appeal No.99/2010 (M ST), dated 30.04.2010 passed by the Commissioner of Central Excise (Appeals), Chennai]

M/s.PITHAVADIAN AND PARTNERS APPELLANT

Versus

COMMISSIONER OF CENTRAL EXCISE, CHENNAI RESPONDENT

Appearance:

For the Appellant Ms. Radhika Chandrasekhar, Adv.
For the Respondent Shri P. Arul, AC (AR)

CORAM:

Hon'be Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Date of hearing/decision **18-12-2017**

FINAL ORDER NO. 43477 / 2017

Per B. Ravichandran:

The appellant is contesting the impugned order on the addition of certain reimbursable expenses in the taxable value of "Consulting Engineering Services". Appellants are registered with the department and are discharging service tax. However, they are incurring certain expenses towards travel, lodging etc., of their personnel during the course of rendering such services. The Revenue held that all these expenses are to form part of gross taxable value in terms of section 67. Accordingly, the service tax liability along with penalty was confirmed against the appellant.

2. We have heard both sides.

Customs, Excise & Service Tax Appellate Tribunal

3. The period of dispute in the present case is 01.04.2006 to 31.01.2008. We note that the includibility of such reimbursable expenditure in the taxable gross value has been decided by Hon'ble Delhi High Court in the case of *M/s. Intercontinental Consultants & Technocrats Pvt. Ltd. Vs Union of India* reported in *2013 (29) S.T.R.9 (Del.)*. Further, we note that the scope of section 67 will not include such reimbursement expenses have been upheld in various cases by the Tribunal as well as High Courts. Reference can be made to the decision of the High Court of Madras in the case of *Commissioner of Service Tax, Chennai Vs M/S. Sangamitra Services Agency* reported in *2014 (33) S.T.R.137 (Mad.)* and the Tribunal's decision in the case of M/s. Amit Sales Vs Commissioner of Central Excise, Jaipur-I reported in *2017 (47) S.T.R.157 (Tri.-Del.)*.

4. In the present case, it is an admitted fact that the expenses now sought to be included are actual expenses got reimbursed by the appellant. In such a situation, there is no relevance to refer to Rule 5(2) of the Valuation Rules discussing about pure agent.

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

(Dictated and pronounced in open court)

(B. RAVICHANDRAN) 1.18
MEMBER (TECHNICAL)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
22-01-2018

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति / CERTIFIED TRUE COPY
27/02/18
सहायक पंजीकार / Assistant Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपीलीय अधिकरण,
चेन्नई / CESTAT, CHENNAI - 600 006.