

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

ST/114/2008

(Arising out of Order-in-Appeal No. 11/2008-ST dated 26.02.2008
passed by the Commissioner of Central Excise & Service Tax
(Appeals), Coimbatore).

M/s. Ontrack Consultants and Services : Appellant

Vs.

CCE & ST, Coimbatore : Respondent

Appearance

Shri J. Shankararaman, Adocate,
For the appellant

Shri S. Nagalingam, AC, (AR),
For the respondent

CORAM

Hon'ble Shri D.N.PANDA, Judicial Member

Hon'ble Shri MADHU MOHAN DAMODHAR, Technical Member

Date of Hearing/Decision: **01.02.2017**

FINAL ORDER No. 4068/2017

Per: D.N.Panda,

There is no dispute by the appellant in respect of service tax demand raised against it. Its only prayer is that due to confusion in non-taxability and taxability of the service and change of stand by the Board in this regard, the appellant has suffered penalty under Section 76 & 78 of the Finance Act, 1944. Therefore, Id.



Counsel prays that in view of the existence of above appealable reason under Section 80 of the Finance Act, 1944, appellant may be exonerated from penal consequences.

2. Revenue opposes the proposition of the appellant as above.

3.1 Heard both sides and perused the records.

3.2 It is appreciable that the case was adjudicated at the infancy stage of law when there were confusion as to the includibility and non-includibility of certain expenses in the gross of taxable service provided. The genuine confusion in law as stated by appellant deserves consideration. Appellant has faced undesired hardship due to levy of penalty.

3.3 Appreciating the reason stated by appellant is reasonable, penalty imposed under Section 76 & 78 of the Finance Act, 1994 is waived. To hold so we have also taken into consideration appellant's cooperation to Revenue to end the litigation.

4. In the result, appeal is partly allowed in so far as penalties are concerned.

(Dictated and pronounced in open Court)

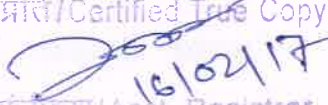
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(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

 16/02/17
(D.N. PANDA)
JUDICIAL MEMBER

BB



प्रमाणित प्रती/Certified True Copy

 16/02/17
सहायक पंजीकार/Asst. Registrar
सीमाशुल्क उत्पादनशुल्क एवं सेवा कर
अपील अधिकरण/(CESTAT)