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

ST/MISC/41083/2017 & ST/41708/2016

(Arising out of Order-in-Appeal No. 26/2016 (STA-I) dated 27.04.2016 passed by the Commissioner of Service Tax, Chennai).

M/s. GCS Infoserv Pvt. Ltd. : Appellant

Vs.

CCE, Chennai-I : Respondent

Appearance

Ms. Rekha Kumari C., Advocate
for the appellants

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

CORAM:

Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **27.12.2017**

FINAL ORDER No. 43387 **/2017**

1.1 The above miscellaneous application has been filed by the department seeking amendment of the cause title on the ground that the department is shown in the above appeal with jurisdiction of Chennai-III Commissionerate whereas now the same has been changed as "The Principal Commissioner of GST & Central Excise, Chennai-North Commissionerate, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600 034".

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1.2 I find that the prayer for amendment of the cause title as also the address for communication of the department needs to be amended in accordance with the change of address/jurisdiction of the department. Miscellaneous application for change of cause title as well as change of address is therefore allowed in the above terms. The amended address shall be noted in the EA-3 Form.

2. The brief facts of the case are that the appellants were engaged in the activity of feeding the received data related to medical insurance, in the prescribed formats and returned the processed data in soft copy to their clients. The department took the view that such activity amounts to Business Support Services, on which the appellants were required to discharge service tax liability. It further appeared that the appellants had collected an amount of Rs.22,65,153/- for the period May 2006 to April 2009 from their clients towards tax liability, however they had failed to discharge their own tax liability. Proceedings initiated against the appellants culminated in adjudication order dated 01.02.2012, where the adjudicating authority confirmed the demand of Rs.22,65,153/- with interest thereon and also imposed penalty under various provisions of law. On appeal, the Commissioner (Appeals) vide the impugned order dated 27/04/2016 upheld the order of the original authority and rejected the appeal. Hence the appellants are before this forum.

3. Today when the matter came up for hearing, on behalf of the appellants, Ld. Advocate, Ms. C. Rekha Kumari submits that

immediately after the auditors had pointed out the discrepancy, they had paid up an amount of Rs. 3,44,387/-. However, they could not participate in the adjudication proceedings, since none of the personal hearing intimations were received by them, for the reason that they had shifted their place of business from Thiruvalleeswarar Nagar, Anna Nagar, Chennai to Vaishnavi Nagar, Chennai. However, after they finally received the adjudication order, they have made further payment of Rs. 19,05,602/-. Ld. Advocate drew my attention to para-8 of the adjudication order which mentions that the appellant either appeared or responded to the personal hearing notices and hence the adjudication was done exparte. She further submits that they were not able to appear for the personal hearing or even file reply to the SCN, since they have not received any of the intimations in that regard. Thus only because they had change the address for no fault of their own they have been deprived of natural justice in the adjudication proceedings. She therefore prays for remand of the matter back to the adjudicating authority so as to enable them to make proper representation of their case.

4. On this, Ld. AR supports the impugned order. He further pointed out that the appellants had not discharged the tax liability but have only contested that there is an excess demand of Rs.15,165/- as narrated in para-6 of the impugned order.

5. Heard both sides and gone through the facts.

6. Evidently, the appellants have been deprived of natural justice to pursue their case both by way of reply to the SCN and also by representation in personal hearing, as they had shifted their address. Hence without going into the merits, the matter is remanded back to the adjudicating authority for denovo consideration. Needless to say, in such proceedings, the appellant shall be given sufficient opportunities to submit written reply to the SCN as well as appear in person for the personal hearing.

7. Appeal is allowed by way of remand. The miscellaneous application also gets disposed of.

(Order dictated and pronounced in the open Court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

BB

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