IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. I

Service Tax Appeal No. 42480 of 2013

(Arising out of Order-in-Appeal No. MAD-CEX-000-APP-099-13 dated 27.08.2013 passed by the Commissioner of Central Excise (Appeals), Lal Bahadur Shashtri Marg, C.R. Buildings, Madurai – 625 002)

M/s. ARAS Arumugasamy Nadar & Co. **: Appellant**
No. 18, Railway Feeder Road,
Virudhunagar – 626 001

VERSUS

The Commissioner of Central Excise **: Respondent**
Lal Bahadur Shashtri Marg, C.R. Buildings, Bibikulam,
Madurai – 625 002

APPEARANCE:

Shri M.A. Mudimannan, Learned Advocate for the Appellant

Smt. Anandalakshmi Ganeshram, Learned Superintendent for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 40237 / 2023

DATE OF HEARING: 30.03.2023

DATE OF DECISION: 31.03.2023

Order : [Per Hon'ble Mr. P. Dinesha]

This appeal is filed by the taxpayer against the impugned Order-in-Appeal No. 099/2013 dated 27.08.2013 passed by the Commissioner of Central Excise (Appeals), Madurai whereby the First Appellate Authority has upheld the demand of Service Tax apart from penalties under Sections 76, 77(1)(a) and 77(2) of the Finance Act, 1994.

2.1 Shri M.A. Mudimannan, Learned Advocate appearing for the appellant, would submit that the appellant has filed the above appeal against the impugned Order-in-Appeal and they have contested only the levy of penalties. He would further submit that the Service Tax demand was on the goods transport charges and there was confusion as regards applicability of Goods Transport Agency (GTA) Services since the appellant had received the GTA Services for Public Distribution System. He would further submit that the appellant was engaged in trading of petroleum products of M/s. Bharat Petroleum Corporation Ltd. and the appellant was to transport Superior Kerosene Oil (SKO) by road for Government Public Distribution System, to be distributed to Ration Card holders. This, according to the appellant, was a service rendered to the Government that prompted the appellant to believe that there was no tax liability, since the service was rendered to a Government Agency.

2.2 The Learned Advocate for the appellant also submitted, without prejudice to the above, that the appellant having remitted the tax before issuance of the Show Cause Notice, the penalties could not have been imposed. He placed reliance on the Order of this Bench of the CESTAT in the appellant's own case in *Final Order No. 40069 of 2013 dated 08.03.2013* wherein, under similar circumstances, this Bench had deleted the penalty.

3. *Per contra*, Smt. Anandalakshmi Ganeshram, Learned Superintendent appearing for the Revenue, supported the findings of the lower authorities. She would also contend that the appellant has not shown any reasonable cause for delay in payment of Service Tax and therefore, the penalties have been correctly levied.

4. We have considered the rival contentions and we have also gone through the judicial precedents referred to during the course of arguments.

5. Undoubtedly, the tax amount itself is very meagre i.e., Rs.8,842/-, which, admittedly, was paid before the issuance of the Show Cause Notice.

6. We find that under similar circumstances, this very Bench has set side similar penalties levied on the appellant in its Final Order *supra*, the ratio of which is squarely applicable to the case on hand.

7. Hence, we set aside the impugned order to this extent. The penalties imposed on the appellant under Sections 76, 77(1)(a) and 77(2) of the Finance Act, 1994 are deleted.

8. The appeal is partly allowed to the above extent.

(Order pronounced in the open court on **31.03.2023**)

Sd/-	Sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

Sdd