CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 50993 of 2021 (SM)

(Arising out of Order-in-Appeal No. 199(SM)/ST/JPR/2021 dated 07.06.2021 passed by the Commissioner (Appeals), Central Excise & CGST, Jaipur.)

M/s Yuvraj Singh **Appellant**
2566, Telipara ki Gali,
Choura Rasta,
Jaipur Rajasthan 302003

VERSUS

Commissioner, Central Excise & CGST- Jaipur I **Respondent**
NCR Building,
Statue Circle, C-Scheme,
Jaipur Rajasthan 302005

APPEARANCE:

Mr. Ankit Totuka, Advocate for the Appellant
Ms. Tamanna Alam, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO. 50309 / 2022

Date of Hearing: 31.03.2022
Date of Decision: 31.03.2022

ANIL CHOUDHARY:

Heard the parties. This Appeal is against impugned Order-in-Appeal whereby the Commissioner (Appeals) have dismissed the Appeal on the ground of limitation.

2. Learned Counsel for the Appellant urges that the Order-in-Original dated 23/10/2019 was served on the assessee on 30/10/2019. Learned Counsel states that *prima facie* there is no

liability to service tax as this Appellant is a publisher engaged in publishing daily newspaper in the name and style of ‘Prabhat Abhinandan’ from Jaipur. They have received amount mainly from Government for publishing the communiqué and advertisement in the newspaper. The payment have been received by them through banking channels/ TDS-“Income Tax” have been deducted. It is further case of the Appellant that Show Cause Notice dated 18/10/2018 was not served on them. Learned Counsel further points out from para 10 of the Order-in-Original, that there is no proper record of service of Show Cause Notice as it has been mentioned by the Adjudicating Authority that Show-Cause Notice dated 18/10/2018 was sent through register AD/Speed Post and there is no mention of the postal receipt number or date of dispatch. Further, it is mentioned that a copy of the notice was also marked to the notice board in the office, as per Section 30C of the Act.

3. It is further urged that after service of the Order-in-Original on 30/10/2019, the Appellants thereafter entrusted the case papers to the Chartered Accountant-Mr. Shivanshu Bhargav for drafting and filing of the appeal. However, due to medical emergency prevailing in the family of the Chartered Accountant, could not take steps in time and thereafter, there was disturbances due to Covid also. Further, appellant was required to obtain registration no. for the purpose of making pre-deposit, for admission of the Appeal. However, in spite of best efforts, the pre-deposit could be made only 07/08/2020 and thereafter, Appeal was filed before the Commissioner (Appeals) on 10/08/2020. It is further urged that there is no deliberate delay or laches on the part of the Appellant in filing the Appeal and whatever

delay has taken place is due to circumstances beyond control of the assessee.

4. Learned DR for Revenue relies upon the impugned order in Appeal.

5. Having considered the rival contentions, I find that the delay has been cogently explained by the Appellant/ assessee in filing their appeal before the Commissioner (Appeals). Accordingly, in the interest of justice, the delay in filing Appeal before the Commissioner (Appeals) is condoned, and this Appeal is allowed by way of remand to the learned Commissioner (Appeals), to decide the Appeal on merits after hearing the Appellant and giving opportunity of making his pleading and filing evidence in support of their contentions.

6. The Appellant is directed to appear before the Commissioner (Appeals) with a copy of this order within a period of 60 days from the date of receipt of this order and seek opportunity of hearing, alongwith a copy of their fresh grounds of appeal and explanations, alongwith evidences as they wish to rely upon.

7. This Appeal is allowed subject to payment of cost Rs. 10,000/- in PM Cares Fund. The Appellant shall deposit the cost and file compliance before the Commissioner (Appeals). Thus, the Appeal is allowed by way of remand.

(Order dictated in the open Court)

(ANIL CHOUDHARY)
Member (Judicial)

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