CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 51699 of 2021-SM

(Arising out of order in appeal No. 263(CRM) ST/JDR/2020 dated 13.08.2020 passed by the Commissioner (Appeals), Central Excise & Central Goods and Service tax, Jodhpur).

M/s Narayan Singh Narendra Singh and Company **Appellant**
Raisar Village Jaipur Road
Raisar Bikaner, Bikaner (Rajasthan).

VERSUS

Commissioner, Central Excise and **Respondent**
Central Goods, Service Tax,
G-105, New Industrial Area
Opp. Diesel Shed, Jodhpur (Rajasthan)-302003.

APPEARANCE:

Sh. Arun Goyal, Advocate for the appellant
Ms. Tamanna Alam, Authorised Representative for the respondent

CORAM:

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

FINAL ORDER NO.50624/2022

DATE OF HEARING/HEARING: 14.07.2022

ANIL CHOUDHARY:

Heard the parties.

2. The issue involved in this appeal is whether the liability of interest under Section 75 survives, once it has been held that there is no demand of service tax for the period 2014-15.

3. Brief facts of the case are that the appellant is engaged in the work of civil construction classifiable under 'Works Contract Service'. By the impugned order-in-appeal dated 13.08.2020 (which

was filed by the Revenue) it has been held by the Commissioner (Appeals) that the appellant is liable to pay interest for late payment of or non-payment of service tax under Section 75 for the period April, 2014 to September, 2014, totaling Rs.4,10,558/-.

3. Subsequently, the learned Commissioner (Appeals) decided the appeal of the appellant –assessee being OIA No. 290(CRM)ST/JDR/2020 dated 21.09.2020, by which it has been held that for the financial year 2014-15, the appellant has rendered services to i) MES - GE, North Bikaner, ii) Indira Gandhi Nahar Project and iii) Panchayat Samiti, Bikaner, which are exempt under Sl. No. 12/12(d)/13(a) of Notification No. 25/2012-ST. Thus, it has been held that the taxable turnover for the financial year 2014-15 is nil and hence no tax is payable.

4. It has been further urged by the learned Counsel for the appellant –assessee that Revenue have not filed any appeal against the OIA dated 21.09.2020 (which was filed by the assessee). In view of the categorical finding that no service tax is payable for the financial year 2014-15, no demand can be called for interest under Section 75. Accordingly, he prays for allowing the appeal.

5. Learned Authorised Representative appearing for the Revenue relies on the impugned order.

6. Having considered the rival contentions, I find that once it has been held that no service tax is payable for the financial year 2014-15, there can be no payment of interest under Section 75. Accordingly, I allow this appeal and set aside the impugned order.

7. This Tribunal takes judicial notice, that the cross appeals before the Commissioner (Appeals) instead of clubbing and deciding the appeals together, the Commissioner (Appeals) have been passing separate orders, leading to conflicting orders, which give further rise to multiple appeals before this Tribunal. Thus, increasing litigation. I hope that CBIC shall issue appropriate general instruction to the Commissioner (Appeals) for taking necessary precaution, if there are cross appeals, they may be heard and disposed of together. Registry is directed to mark a copy of this order to the Chairman, CBIC for necessary action at their end.

8. In the result, the appeal is allowed.

(Dictated and pronounced in open Court).

(Anil Choudhary)
Member (Judicial)

Pant