CUSTOMS EXCISE & SERVICE TAX APPLELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH,COURT NO. I

SERVICE TAX APPEAL NO. 50563 OF 2017

[Arising out of Order-in-Appeal No. 273 (AK)/ST/JPR/2015 dated 15.12.2015 passed by the Commissioner (Appeals) Customs and Central Excise, New Delhi]

OFFICE OF THE SUPERINTENDENT OF POLICE, DHOLPUR, RAJASTHAN	**APPELLANT**

Vs.

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, CUSTOMS AND CENTRAL EXCISE,ALWAR	**RESPONDENT**

Appearance:
Present for the Appellant : Ms Shradha Aggarwal, Advocate
Present for the Respondent: Dr Radhe Tallo, Authorised Representative

CORAM:
HON'BLE MR.JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing : **15/12/2022**
Date of Decision : **15/12/2022**

FINAL ORDER NO. 51205/2022

Justice Dilip Gupta

This appeal is directed against the order dated December 15, 2015 passed by the Commissioner (Appeals) by which the appeal that was filed to assail the order dated 31.3.2014 passed by the Additional Commissioner has been allowed.

2. The issue involved in this appeal relates to levy of service tax on the deployment of police personnel for the protection of individual persons/ organizations /property by the Rajasthan police department.

3. The Revenue department alleged that the activity of providing security personnel is a taxable service covered within the meaning of "security agency service" as defined under section 65 (94) of the Finance Act, 1994.

4. It is pointed out by Ms. Shradha Aggarwal, learned counsel for the appellant that this precise issue was considered by a Bench of this Tribunal in **Deputy Commissioner of Police, Jodhpur vs. Commissioner of Central Excise & Service Tax, Jaipur II**[1] and the Civil Appeal[2] filed by the department to assail the order passed by the Tribunal was dismissed by Supreme Court on September 18, 2017.

5. Dr. Radhe Tallo, learned authorized representative appearing for the Department does not dispute that the issue involved in this appeal was precisely the issue that was involved in **Deputy Commissioner of Police**.

6. The Tribunal, in **Deputy Commissioner of Police, Jodhpur** framed the issue to be decided in the following manner:

> "8. The question for decision is whether the State Police represented by the Superintendents of Police of various districts would be covered within the definition of security agency services and service tax will be liable to be paid by them on the amounts recovered by them for providing security personnel to various organizations. Further, they were also sending police personnel for character verifications of candidates selected for various jobs and collecting charges but they neither got the registered with the Department nor did they pay service tax on such amounts recovered."

7. This issue was decided by the Tribunal in the following manner:

> "13. On the basis of the above discussion, we conclude that police department, which is an agency of the State Govt., cannot be considered to be a "person" engaged in the business of running security services. Consequently, the activity undertaken by the police is not covered by the definition of Security Agency under Section 64(94) of the

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[1] **[2018) 93 taxmann.co, 236 (New Delhi-CESTAT)**
[2] **[2018 (11)GSTL J133(SC)]**

> Act. We also find that in terms of C.B.E. & C.'s circular on this subject, the fees collected by the police department is in the nature of fee prescribed for performing statutory function, which has been deposited into the Govt. treasury. In the light of the C.B.E. & C.'s circular also, there can be no levy of service tax on such activities carried out by the police department."

8. The Civil Appeal filed by the department against the aforesaid decision of the Tribunal was dismissed by the Supreme Court and the order is as follows:

> "1. Heard Shri Ranjit Kumar, Learned Solicitor General appearing for the appellant and perused the relevant material.
> 2. Delay condoned.
> 3. In the facts of the case, we are not inclined to interfere with the impugned order(s). The civil appeal(s) are accordingly dismissed."

9. It will be seen from paragraph 13 of the decision of the Tribunal that the activity undertaken by the appellant would not be covered by "security agency service", as defined under section 65 (94) of the Finance Act, 1994.

10. The order passed by the Commissioner (Appeals) holding to the contrary, therefore, deserves to be set aside and is set aside. The appeal is, accordingly allowed.

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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