CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 52345 of 2016

(Arising out of Order-in-Original No. 21/PC/BPL-ST/2016 dated 29.03.2016 passed by the Commissioner, Customs, Central Goods & Service Tax, Bhopal)

Arun Kumar Shrivastava **.....Appellant**
E-8/66A, Akash Ganga Colony, Shahpura,
Bhopal (MP)

VERSUS

Commissioner, Customs, Central Excise
& Service Tax, Bhopal **.....Respondent**
48, Admin Area, Arera Hills,
Bhopal -462011

APPEARANCE:
None for the Appellant
Mr. Radhe Tallo, Authorized Representative of the Department

CORAM : HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: 09.05.2023

FINAL ORDER NO. 50653/2023

JUSTICE DILIP GUPTA

The order dated March 29, 2016 passed by the Principal Commissioner of Customs, Central Excise and Service Tax, Bhopal[1], confirming the demand of Rs.4,45,066/- out of the proposed demand of Rs.51,02,595/- by taking recourse to the

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1 the Principal Commissioner

proviso contained in section 73 (1) of the Finance Act, 1994[2], with interest and penalty has been challenged in this appeal.

2. No one has appeared on behalf of the appellant, but Dr. Radhe Tallo, learned authorized representative appearing for the Department has made submissions on behalf of the Department.

3. A perusal of the show cause notice dated October 21, 2013 issued to the appellant would show that the appellant had been providing services to Madhya Pradesh State Tourism Development Corporation for renovation of hotels, construction of temples, development in temples and work relating to pathroad, beds at different rivers and development of parking areas as a contractor and the balance sheet, the purchase ledger and copies of the Bills would indicate that the appellant had provided services with material. Thus the services provided by the appellant would fall under the category of 'works contract service' which was made taxable with effect from July 01, 2007.

4. The show cause notice, however, proposed a demand under "commercial and industrial services" as defined under section 65 (25b) of the Finance Act and the impugned order has also confirmed the demand under the said category.

5. It is clear from a perusal of the records that the services actually provided by the appellant related to 'works contract service'. The demand, therefore, could not have been made or confirmed under 'commercial and industrial construction services'.

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2 the Finance Act

6. The impugned order dated March 29, 2016 passed by the Principal Commissioner is, therefore, set aside. The appeal is, accordingly, allowed.

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana