CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH

COURT NO. 4

SERVICE TAX APPEAL NO. 52146 OF 2019

[Arising out of Order-in-Original No. DL-GST-WEST-COM-30-19-20 dated 24.04.2019 passed by the Principal Commissioner, Central Tax, Delhi West]

COMMISSIONER OF CGST & CENTRAL EXCISE-DELHI WEST **....APPELLANT**

Office of the Commissioenr of Service Tax
4th & 5th Floor, EIL Annexe,
Building, Bhikaji Cama Place,
West Delhi, New Delhi-110066

Vs.

M/S SEGMENTAL CONSULTING & SUPPORT SERVICE PVT LTD **....RESPONDENT**

Krishna Apartment, A-1B,
110A, Paschim Vihar, New Delhi-110063

Appearance:
Present for the Appellant : Shri Aejaz Ahmad and Shri Manoj Kumar, Authorised Representatives

Present for the Respondent: Shri Rajesh Kumar Yadav, Advocate

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50444 /2025

Date of Hearing/Decision : **12/03/2025**

DR. RACHNA GUPTA

1. The present appeal has been filed to partially assail the order-in-original no. 30-19-20/order no. 68-2019-2019 dated 24.04.2019(impugned order) vide which:

(i) The demand of service tax not paid during the period 2015-16 to 2016-17 amounting to Rs. 2,22,20,243/- has been confirmed along with the interest;

(ii) The CENVAT credit amounting to Rs. 42,80,808/- for the aforesaid period has been disallowed;

(iii) Interest has been demanded on the said amount as well;

(iv) Penalty for an amount of Rs. 22,22,024/- equivalent to 10% of demand of service tax under section 76 of the Act has been imposed and;

(v) Penalty of Rs. 21,40,404/- equivalent to 50% of the demand of CENVAT Credit under section 78 of the Finance Act read with Rule 15(3) of CENVAT Credit Rules, 2004 has been imposed. The department has filed the present appeal being aggrieved of the imposition of penalty equivalent to 50% of the demand of CENVAT credit.

The order to the extent of (iv) & (v) above has been assailed by the department.

2. At the time of hearing of the appeal, learned counsel for the assessee/respondent has placed on record the copy of final order of this Tribunal bearing no. 55844 of 2024 dated 30/05/2024 passed in the cross appeal filed by the present respondent/ assessee against the impugned order-in-original dated 24.04.2019. The impugned order-in-original has been set aside in toto thereby allowing the appeal of the assessee/ respondent. It is submitted that once the entire order has been set aside, the present appeal is no more maintainable.

3. Though learned authorized representative appearing for the department has denied any knowledge about the said order, however, perusal of the order reveals that the said order has been passed with respect to appeal filed by M//s Segmental Consultancy & Infrastructure advisory Pvt. Ltd, the respondent herein to assail the order-in-original no. 68/2018-19/134 dated 24.04.2024 which has confirmed the proposals of show cause notice dated April 20, 2018 proposing the demand of Rs. 2,22,20,243/- for the period 2015-16 to 2016-17 along with such other proposals as have been confirmed by the Order-in-Original dated 24.04.2024 except that the quantum of penalty was reduced.

4. We observe that the present appeal has also challenged the same order-in-original bearing no. 68/2018-19/134 dated 24.04.2024 which also bears no. 30/2018-19 dated 24.04.2019. The show cause notice as has been adjudicated is observed to be same i.e., SCN bearing no. 60/08/2015 dated 20.04.2018. The said Final Order also recites about earlier two show cause notices bearing no. 17/2015 dated 03.12.2015 for the period 2010-11 to 2013-14 and the show cause notice dated 18.04.2016 for the period 2014-15 as were served upon the present respondent. Both the said show cause notices have been discussed in the show cause notice dated 20.04.2018 which has been adjudicated vide the impugned order-in-original.

5. This particular perusal is sufficient enough for us to hold that from the same order arose two cross appeals one was filed by the assessee and another was filed by the department. In the appeal filed by the assessee, the order confirming the proposal of the show cause

notice dated 20.04.2018 has been set aside. Once the entire order-in-original dated 24.04.2015 stands set aside, the present appeal challenging the some portion of the said order become infructuous. Hence is dismissed as infructuous i.e. not maintainable anymore.

(Order pronounced in open court)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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

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