CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH –COURT NO. 4

Service Tax Appeal No. 50040 of 2024

(Arising out of Order-in-Appeal No. RPR-EXCUS-000-APP-049-22-23 dated 13.09.2022 passed by the Commissioner (Appeals), CGST, Customs & Central Excise, Raipur)

Grand Arsh Multinet Private Limited **Appellant**
(Formerly Known as Hathway CCN
Multinet Pvt. Ltd.)
1st Floor, Pagariya Complex, Mini Mata
Parisar, Near Pandri Bus Stand, Pandri,
Raipur, Chhattisgarh - 492003

Versus

Commissioner, CGST, Customs & Central Excise, Raipur **Respondent**
GST Building, Dhamtari Road,
Tikrapara, Raipur, Chhattisgarh-492001

<u>Appearance:</u>

Present for the Appellant: Ms. Pooja Jajwani, Chartered Accountant

Present for the Respondent: Shri V.J. Saharan, Authorized Representative

<u>CORAM:</u>

Hon'ble Dr. Rachna Gupta, Member (Judicial)

Date of Hearing/Decision: 27/06/2025

Final Order No. 50959/2025

<u>Dr. Rachna Gupta</u>:

The present appeal has been filed to assail the Order-in-Appeal bearing No. 049/2021 dated 13.09.2022. The facts in brief as relevant for the present adjudication are that the appellant M/s Hathway Bhaskar is a private limited company and is admittedly engaged in providing taxable services as defined under Section 65B(44) of the Finance Act, 1994.

2. During the scrutiny of the appellant's record, it was observed that the appellants were engaged in providing services as that of Advertising Agency Service, Cable Operator and Broadcasting Services. Certain documents were demanded from the appellants. From perusal thereof specifically the comparison of the ST-3 returns of the balance sheet for the period 2014-2015 till June 2017, it was observed that the appellants had short paid the service tax as follows:

(i) The said amount was alleged to have been concealed amount with an intent to evade the payment of service tax amounting to Rs. 68,486/-;

(ii) The appellant made a payment in lieu of receiving taxable service under Manpower Supply Service and have not paid service tax on the amount of Rs. 3,80,161/- despite their liability to pay the same under Reverse Charge Mechanism.

(iii) The appellant also failed to discharge the liability under Reverse Charge Mechanism towards an amount of service tax of Rs. 1,32,274/- despite receiving the taxable service i.e. rent-a-cable service.

(iv) The appellant was also found to have not paid service tax of Rs. 1,57,891/- as was to be paid under Reverse Charge Mechanism only for getting professional consultancy.

3. With these observations, the appellant was alleged to have not paid the service tax amounting to Rs. 4,45,043/-. The said amount was proposed to be recovered vide the Show Cause Notice

No. 61/2018-19 dated 13.11.2019 along with the proportionate interest and the appropriate penalties. The said proposal was confirmed (ex-parte) vide the Order-in-Original No. 51/2020-21 dated 31.03.2021. Appeal against the said order has been rejected vide the impugned order in appeal. Being aggrieved, the appellant is before this Tribunal.

4. I have heard Ms. Pooja Jajwani, learned counsel for the appellant and Shri V.J. Saharan, learned Authorized Representative for Revenue.

5. Learned counsel for the appellant has submitted that the adjudicating authorities below have wrongly confirmed the demand. The Commissioner (Appeals) has confirmed the same alleging the lack of evidence. Learned counsel has submitted Chartered Accountant's certificate proving that the allegations in the show cause notice are wrong and so are the findings as arrived at by Commissioner (Appeals). It is also submitted that Chartered Accountant's certificate is the sufficient evidence to prove that the amount of Rs. 68,486/- was VAT output for the previous periods. The amount of Rs. 1,32,274/- was the amount of reimbursement towards fuel charges incurred by the appellant employees. Amount of Rs. 1,57,891/- except for Rs. 15,000/- thereof, was the amount of professional fee given to the Chartered Accountant and amount of Rs. 3,80,161/- was an amount of security deposit. All these facts stands duly supported by the Chartered Accountant certificate. The demand is accordingly, prayed to be set aside and appeal is prayed to be allowed.

6. Learned Departmental Representative while rebutting these submissions has foremost reiterated the findings arrived at by Commissioner (Appeals). It is also pointed out that the demand of short paid service tax has been confirmed based on the appellant's own admission for an amount of Rs. 11,462/- as their service tax liability and also for want of any evidence in support of their contentions. The remaining amount of service tax has also been rightly confirmed as appellant had failed to produce any documentary evidence in support of their contentions. Learned Departmental Representative pointed out that the Chartered Accountant certificate as has been impressed upon to be the sufficient evidence in support of the appellant's contentions was never produced before Commissioner (Appeals). The order is, accordingly, prayed to be upheld.

7. Having heard both the parties and observing that the impugned order/order-in-appeal has confirmed the proposal of the impugned show cause notice for the reason that the appellant had failed to produce any documentary evidence in support of its contentions. Further observing that appellant is impressing upon the Chartered Accountant's certificate, as filed today, to be the sufficient proof for all the contentions of the appellant and for setting aside the impugned demand. Finally keeping in view that the said document was not before Commissioner (Appeals) and that the appellant was not present before the original adjudicating authority and no reply to show cause notice was also ever filed by the appellant. The Order-in-Original was announced ex-parte.

Hence one fair opportunity to the appellant is held reasonable and justified.

8. With these observations, I am of the opinion that the document of appellant, the Chartered Accountant certificate be placed before the original adjudicating authority with any other document, if deemed relevant, who shall be weighing the said document in the light of the entire other material on record and shall pass a fresh decision vis-à-vis all the allegations against the appellant as per the impugned show cause notice. The original adjudicating authority is also required to pass the order within three months of receiving the copy of the present order and after providing sufficient opportunity of hearing to the appellant. The appellant is directed to remain present as and when required by the said authority and to not to take more than two opportunities for the purpose. With these observations, the present appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(Dr. Rachna Gupta)
Member (Judicial)

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