CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 55268 of 2013

(Arising out of Order-in-Original No. 13/Commissioner/2012 dated 30.08.2012 passed by the Commissioner of Central Excise & Service Tax, New Delhi)

DATE OF HEARING : 09.02.2017
DATE OF DECISION : 09.02.2017

CC, New Delhi …. **Appellant**
(Rep. by Sh. Snjay Jain, DR)

VERSUS

Oriental Insurance Co. Ltd. …. **Respondent**
(Rep by Sh. Rohit Jain, Adv.)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 50838/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the Department against the order-in-original no. 13/Commissioner/2012 dated 30.08.2015 passed by the Commissioner of Central Excise & Service Tax, New Delhi.

2. The brief facts of the case are that, the assessee-Respondent is providing 'insurance service' and depositing the Service Tax to the Department. By the show cause notice a demand of Rs. 1.91 crores and Rs. 1.41 crores along with interest was raised. However, by the

impugned order, the Commissioner dropped the demand of Rs. 1.91 crores and found that the assessee-Respondent has already deposited an amount of Rs. 1.41 crores, so he adjusted the demand against the deposit of Rs. 3,15,62,249/- without raising the question of interest. Being aggrieved, the Department has filed the present appeal.

3. With this background, we have heard Shri Sanjay Jain, learned DR for the Department and Shri Rohit Jain, learned counsel for the assessee-Respondent.

4. After hearing both sides and perusal of record, it appears that the assessee-Respondent had already deposited the excess amount pertaining to the Service Tax to the tune of Rs. 3,15,62,249/-. The demand was for the amount of Rs. 1.91 crores and Rs. 1.41 crore. The Commissioner has rightly set off the demand against the already available deposit lying with the Department. When it is so, then there is no question for raising the demand for interest or penalty.

5. Therefore, in the peculiar facts and circumstances of the case, we find no reason to interfere with the impugned order. Hence, the order passed by the Commissioner is hereby sustained along with the reasons mentioned therein.

6. In the result, the appeal filed by the Department is dismissed.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay