IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 10.2.2017

Appeal No. ST/170/2012- DB

(Arising out of Order-in-Appeal No. 466(AKJ)ST/JPR-I/2011 dated 3.1.2012 passed by the Commissioner (Appeals), Central Excise & Customs, Jaipur)

M/s Ahlcon Parenterals India Ltd. Appellant

Vs.

CCE, Jaipur-I Respondent

Appearance

Shri J.M. Sharma, Consultant - for the appellant

Shri Ranjan Khanna, D.R. - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 51873/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed against the Order-in-Appeal No. 466/2011 dated 28.12.2011/3.1.2012.

2. The brief facts of the case are that the appellant is the manufacture of medicines for export out of India (without payment of duty) as well as sale within India on payment of appropriate duty and availed Cenvat credit of input and input service. The appellant had exported the medicines to the Commonwealth of Independent States (CIS), which were earlier part of the erstwhile of the USSR. As

per the local laws, in these countries, the registration is required for the medicines imported. To meet the statutory requirement of registration, the appellant has remitted money (i.e professions fee and registration charges) to the professional, to whom the appellant has engaged. The department after issuing the show cause notice opined that the service of the appellant is on the reverse charge mechanism and subject to service tax and so they are liable to pay service tax on such amount under Section 66A of the Finance Act, 1994. Finally, the lower authorities had demanded the service tax. Being aggrieved, the appellant has filed the present appeal.

3. With this background we heard Shri J.M. Sharma, ld. Consultant for the appellant and Shri Ranjan Khanna, ld. D.R and also perused the written submissions.

4. From the record, it appears that for the subsequent period in the assessee's case (order in original No. 2/2013 dated 21.7.2012), the Commissioner himself has given relief to the appellant by observing that :-

> "They have also enclosed copies of relevant invoices and copies of letters issued by their banks, i.e. Punjab & Sind bank and Syndicate Bank, Delhi for remittance of the amount in question.
>
> From perusal of the copies of letters issued by the banks for remittance of foreign currency I find that in

the column meant for "Remittance Information" the description is given as "payment for product registration Certificate" or Registration of Medical Products".

I also find that the invoices in respect of which the assessee have remitted the foreign currency have been issued by 'Federal Service of the Russian Federation for Supervision in the sphere of Public Health and Social Development, Scientific Centre on Expertise of Medical Application Products 127051, Moscow" and "Ministry of Health and Medical Industry of Turkmenistan, Centre for registration of medical products and state quality control, 744000, Turkmenistan, Ashgabat City, Gerogly Str. 27."

In view of above, I find that the assessee have paid an amount of Rs.11,19,827/- towards registration of their products with the respective Governments where they wished to export their manufactured goods i.e. medicines.

In view of above, I hold that the activity of getting the assessees products registered with a foreign Government does not fall under the category of Business Support Service. As the assessee have not got any service from abroad under the category of Business Support Service, I hold that they are not liable to pay Service Tax in terms of Section 66A of the Finance Act, 1994."

5. In the instant case, in the impugned order, it is mentioned that no evidence was furnished pertaining to the requirement of the registration in the CIS country. But this requirement has already been satisfied by the appellant in the above mentioned case for the subsequent period for the same medicines. When it is so, then we

find no merit in the impugned orders and the same is hereby set aside.

6. In the result, the appeal filed by the appellant is allowed with consequential relief.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

(Justice Dr. Satish Chandra)
President

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