CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 14.02.2017

Service Tax Appeal No. 350 of 2012
(Arising out of order-in-appeal No. 25, 26(ST)/RPR-II/2011 dated 14.12.2011 passed by the Commissioner (Appeals), Central Excise, Raipur).

M/s Chhattisgarh Distilleries Limited Appellant-assessee

Vs.

CCE, Raipur Respondent

AND

Service Tax Appeal No. 658 of 2012
(Arising out of order-in-appeal No. 25, 26(ST)/RPR-II/2011 dated 14.12.2011 passed by the Commissioner (Appeals), Central Excise, Raipur).

CCE, Raipur Appellant-Revenue

Vs.

M/s Chhattisgarh Distilleries Limited Respondent-assessee
Appearance:

Sh. Narendra Singhvi, Advocate for the assessee
Dr. Neha Grg, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order Nos. 51792 – 51793/2017

Per: **Justice (Dr.) Satish Chandra**:

Both the cross appeals have been filed against the order-in-appeal No. 25, 26(ST)/RPR-II/2011 dated 14.12.2011.

2. The brief facts of the case are that during the period under consideration (January 2005 to March 2009), the appellant was a manufacturer of portable

spirit, IMFL and CL. The appellant was paying freight for transportation of such goods. Proceedings were initiated against the appellant proposing demand of service tax of Rs. 18,24,509/- under GTA services by alleging that appellant was not eligible for exemption under Notification No. 34/2004-ST dated 03.12.2004. After issuing a show cause notice, the demand was made which was upheld by the impugned order but the penalty under Section 76 of the Finance Act, 1994 was cancelled. Being aggrieved, both the parties have filed present appeals.

3. With this background, we heard Sh. Narendra Singhvi, ld. Advocate for the assessee; and Dr. Neha Garg, ld. AR for the Revenue. Ld. Counsel for the assessee submits that as per the notification No. 34/2004-ST dated 03.12.2004 “the gross amount charged on consignments transported in a goods carriage does not exceed rupees one thousand five hundred”. Ld. Counsel submits that each voucher is less than Rs.1500/- hence, no service tax is applicable

4. On the other hand, ld. Counsel for the Revenue submits that the benefit is available only to a single transaction as “a” transaction is already mentioned in the said notification. But in the case of the appellant, a number of transactions were performed. The payment is consolidate, parties are common thus gross amount exceeded Rs. 1500/-. She also drew our attention to the order-in-appeal where consignments were individual consignments transported in a goods carriage for transportation of goods, giving truck no., trips, date & freight amount stripwise. She submits that the appellant has performed consolidate service. Lastly, she justified the impugned order.

4. After hearing both sides and on perusal of record, it appears that the exemption of Rs.1500/- is available to “a” single transaction but when the transaction are consolidate with the same parties, the said exemption is not available on the subsequent vouchers. In other words, the exemption is only available on first voucher and not on subsequent vouchers. In the instant case, the lower authorities have already disallowed the claim on the vouchers which are in numbers but each below Rs. 1500/-. Thus the order appears reasonable as per the Golden Rule of Interpretation for the reason that in the said Notification No. 30/2004 the word “a” transaction is already mentioned. Hence, we find no reason to interfere with the impugned order, the same is hereby sustained alongwith the reasons mentioned therein.

5. Regarding the departmental appeal, where the penalty was cancelled under Section 76 of the Finance Act, 1994, it appears that after May, 2008, only one penalty is sustainable. In the instant case, the appellate authority has already cancelled the another penalty. When it is so, then we find no reason to interfere with the order impugned which is hereby sustained alongwith the reasons mentioned therein.

6. In the result, both the cross appeals are dismissed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)	(Justice (Dr.) Satish Chandra)
Member (Technical)	President

Pant