IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

COURT-I

Date of Hearing/Decision : **13.02.2017**

Appeal No. ST/1121/2010 - CU (DB)

[Arising out of the Order in Appeal No. 118 (DK)ST/JPR-I/2010 dated 15.04.2010 passed by Commissioner (Appeals) Jaipur]

Mound Trading Company Pvt. Limited … Appellants

vs.

Commissioner of Central Excise & S.T., Jaipur … Respondent

Appearance:

Rep. by - Ms. Rinki Arora, Advocate for the appellant
Rep. by - Ms. (Dr.) Neha Garg, DR for the respondent.

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

Final Order No. 51799/ 2017-CU (DB)

Per Justice Dr. Satish Chandra

The present appeal is filed against the OIA No. 118 (DK)ST/JPR-I/2010 dated 31.03.2010.

2. The brief facts of the case are that during the period under consideration (2004-05), the appellant was engaged in the manufacture of confectionery and pet jars falling under sub-heading No. 1704.90 and 3923.90 respectively of the Central Excise Tariff Act, 1985 for M/s. Parle Products Limited. They had not paid service tax amounting to Rs. 77,520/- on the services provided by them to M/s. Bajaj Allianz General Insurance Company Limited for which they have collected an amount of Rs. 7,60,000/- as Risk Management Charges. The department has

charged service tax along with interest and penalty. Being aggrieved, the appellant has filed the present appeal.

3. Ms. Rinki Arora, ld. Counsel submits that the service tax along with interest and 25% of the penalty has already been deposited. Now, the sole grievance of the appellant pertains to relief of remaining amount of penalty. She submits that relief of remaining amount be granted. On the other hand, Ms. (Dr.) Neha Garg, ld. DR, opposed to grant relief of balance amount of penalty. She reiterated the findings in the impugned order.

4. After hearing both the sides and perusal of the record, we find that the appellant, immediately after knowing the liability, has paid the service tax along with interest and 25% of the penalty. The confusion was due to the policy issued by Bajaj Allianz and the clauses therein. In these circumstances, we find no justification for levy of penalty. Hence, we set-aside the impugned order, cancel the levy of penalty of 75% and grant relief of payment of balance amount of penalty amount.

5. In the result, the appeal filed by the appellant is allowed.

[Order dictated & pronounced in open court]

(**V. Padmanabhan**)
Member (Technical)

(Justice Dr. Satish Chandra)
President

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