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

COURT-I

Date of Hearing/Decision : **16.02.2017**

Appeal No. ST/55226/2013 -CU(DB)

[Arising out of the Order in Original No. Commissioner/RPR/ST/76/2012 dated 16.10.2012 passed by Commissioner Service Tax, Raipur]

Bhilai Engineering Corporation Limited … Appellants

Vs.

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

Appearance:

Rep. by - Shri Manish Gour, Advocate for the Appellant
Rep. by - Shri Sanjay Jain, DR for the Revenue.

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

Final Order No. 51945 /2017 - DB

Per Justice Dr. Satish Chandra

The present appeal is filed by the appellant against Order-in-Original No. Commissioner/RPR/ST/76/2012 dated 16.10.2012.

2. The brief facts of the case are that, during the period under consideration (April 2006 to Sept. 2009), the appellant was engaged in the manufacture of excisable goods and was a registered assessee with the Central Excise department. The appellant is also registered with the Service Tax department for payment of service tax under GTA services, by reverse charge and was duly paying service tax on such GTA services. However,

some of the expenses of the appellant were not covered under GTA services and the appellant did not pay service tax thereon. On the basis of the difference in the taxable value reported in ST-3 returns and the amount reported in trial balance, the department levied the service tax after issue of show cause notice. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we heard Shri Manish Gour, ld. Counsel and Shri Sanjay Jain, ld. DR for the parties, perused the written submission and bulky material available on record.

4. It may be mentioned that the notification is giving exemption on each consignment transported by road. The exemption is given with effect from 01.01.2005 on a single consignment of Rs. 1500/- and Rs. 750/- constructively, in a financial year, as the word **"a"** is mentioned in the said notification. It may be mentioned that the issue is now settled by the decision of the Tribunal, in the case of *Chhattisgarh distilleries Limited (Appeal No. ST/350,658/2012- Final Order No. 51792-51793/2013 dated 14.02.2017)*. As per the ratio laid down by the Tribunal, the benefit is available only on a single transaction in each financial year. In other words, the appellant is entitled to the benefit, pertaining to the consignment transported by road, for Rs. 1500/-+ Rs.750/- during the financial year.

5. In the instant case, it appears that there are certain claims made by the appellant which are not related to the transport carrier charges. Such are, consumables bills, loading and unloading charges etc. During the course of arguments, ld. Counsel has shown copies of ledgers wherein loading and unloading charges were mentioned. He submits that the same are not within the purview of service tax. This aspect has not been considered by the lower authorities. Hence, to this effect, we set-aside the impugned order and remand the matter back to the adjudicating authority to decide the issue afresh, after examining the ledgers and other evidence available on record.

6. In the light of above discussions, necessary opportunity of hearing be provided to the appellant. Additional evidence, if need be, may be admitted as per law.

7. In the result, appeal filed by the appellant is allowed by way of remand.

[Order dictated & pronounced in open court]

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

(**Justice Dr. Satish Chandra**)
President

KL.