CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal Nos. 51307 & 51308 of 2014

(Arising out of Order-in-Appeal No. 182-183(VC)ST/JPR-I/2013 dated 29.10.2013 passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur)

DATE OF HEARING : 01.03.2017
DATE OF DECISION : 01.03.2017

M/s Crown Tours Limited …. Appellants
(Rep. by Sh. Rahul Lakhwani, CA)

VERSUS

CCE&ST, Jaipur …. Respondent
(Rep by Dr. Neha Garg, DR)

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

FINAL ORDER NO. 52167-52168/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

Both the present appeals have been filed by the assessee-Appellants against the impugned order-in-appeal no. 182-183(VC)ST/JPR-I/2013 dated 29.10.2013 passed by the Commissioner of Customs & Central Excise (Appeals-I), Jaipur.

2. The brief facts of the case are that, the assessee-Appellants were engaged in Tour Operator Services. The Department upheld the Service Tax demand of Rs. 4,91,016/- on the ground that the assessee-Appellants had wrongly availed Cenvat credit of Rs. 96,335/- for the month of March, 2006

and also wrongly availed 60% abatement under Notification No. 01/2006-ST dated 01.03.2006. The Department has also levied the penalty under Section 76 and 78 of the Finance Act, 1994. Being aggrieved, the assessee-Appellants have filed the present appeals.

3. With this background, we have heard Shri Rahul Lakhwani, Chartered Accountant for the assessee-Appellants and Dr. Neha Garg, learned DR for the Department.

4. During the course of arguments, the learned Chartered Accountant for the assessee-Appellants has drawn the attention towards chart given in para 4.5 of the impugned order wherein payment of Service Tax of Rs. 94,452/- through Cenvat Credit has been shown paid. He submits that this amount was wrongly mentioned as the same is not reflected in the ST-3 returns. He also submits that the excess amount was paid to the Department and adjustment was denied. On the other hand, the learned Departmental Representative, reiterates the findings of the impugned order.

5. After hearing both sides and on perusal of record, we are of the view that the entries made in the order in original (supra) need to be verified from the ST-3 Form. *Prima facie,* there is something wrong. Hence, we set aside the impugned order and remand the matter to the adjudicating authority for *de novo* adjudication, but by providing a reasonable opportunity to the assessee-Appellants to present their case with liberty to file additional documents, if any, as per law. Both parties have agreed to it.

6. In the result, the appeals filed by the assessee-Appellants are allowed by way of remand.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay