CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 1756 of 2011

(Arising out of Order-in-Original No. Commissioner/RPR/CEX/42/2011 dated 06.09.2011 passed by the Commissioner of Central Excise & Service Tax, Chhattisgarh)

DATE OF HEARING : 01.03.2017
DATE OF DECISION : 01.03.2017

M/s Amit Road Lines …. **Appellants**
(Rep. by Sh. A.K. Batra, CA)

VERSUS

CCE, Raipur …. **Respondent**
(Rep by Sh. Sanjay Jain, DR)

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

FINAL ORDER NO. 52165/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the impugned order-in-original no. Commissioner/RPR/ CEX/42/2011 dated 06.09.2011 passed by the Commissioner of Central Excise & Service Tax, Chhattisgarh.

2. The brief facts of the case are that, the assessee-Appellants is a sole proprietor of goods transport agency and providing the 'Goods & Transport Services', but the Department has categorised the same under

the category of 'Cargo Handling Services' and brought to the Service Tax net under Section 65(105)(zr). Being aggrieved, the assessee-Appellants has filed the present appeal.

3. With this background, we have heard Shri A.K. Batra, Chartered Accountant for the assessee-Appellants and Shri Sanjay Jain, learned DR for the Department, and perused the written submissions.

4. During the course of arguments, Shri A.K. Batra submits that the issue is squarely covered by the ratio laid down in the case of **CCE, Indore vs M/s Arvind Singh Lal Singh,** 2016 (12) TMI 37 – CESTAT, New Delhi. On the other hand, Shri Sanjay Jain, learned DR, reiterates the findings of the impugned order and submits that the lower authorities have passed the order after analysing the issues involved.

5. After hearing both sides and on perusal of record it appears that the lower authorities have passed the order *ex parte* without providing sufficient opportunity to the assessee-Appellants. Hence, in the interest of justice, we set aside the impugned order and remand the matter to the adjudicating authority for *de novo* adjudication by providing a reasonable opportunity to the assessee-Appellants to present their case with liberty to file additional documents, if any, as per law.

6. In the result, the appeal filed by the assessee-Appellants is allowed by way of remand.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

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