IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Service Tax Appeal No.ST/1882/2012-ST [DB]

[Arising out of Order-in-Appeal No.33(ST) RPR-I/2011 dated 30.03.2012 passed by the Commissioner (Appeals-I), Customs & Central Excise, Raipur]

M/s. Bagadia Brothers Pvt. Ltd. …Appellant

Vs.

C.C.E., Raipur … Respondent

Present for the Appellant : Mr. Vijayan Khongbal, C.S.
Present for the Respondent: Mr.J.P. Singh, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing/decision: 28/03/2017

FINAL ORDER NO. 52677/2017

PER: B.RAVICHANDRAN

The appellant is aggrieved by the order dated 30.03.2012 of Commissioner (Appeals-I), Raipur. The appellants are engaged in export- import business and were registered with the Service tax department for payment of service tax under various taxable categories. In respect of export of goods availing certain input services, they have filed claim for refund in terms of Notification No.17/2009-ST dated 07.07.2009 with reference to service tax paid on input services used in connection with exports of goods. The claim of Rs.1,55,67,956/- was examined by the Original Authority, who sanctioned an amount of Rs.1,45,22,479/- and rejected claim for Rs.10,45,477/-

2. On appeal vide the impugned order a further sanction of Rs.4,49,934/- and Rs.79,941/- were allowed by the Commissioner (Appeals), who rejected the remaining amount of Rs.5,15,602/-. The said amount was rejected only on the ground that the GTA service for which refund was claimed by the appellant was already considered in another claim sanctioned.

3. Ld. Counsel appearing for the appellant submitted that they have paid service tax on GTA service for various periods under different challans. He submitted that there was a clerical error in submitting and following up of the claims with reference to challan Nos. for payment of service tax under GTA Service. He further stated that there were 3 claims under the said Notification covering different periods. All the claims had GTA service tax also as one of the component. When the amounts were reconciled based on the challan details, claim made under GTA service and sanction for the different period, the appellant's case of error can be brought out.

4. The ld. A.R. submitted that the appellants failed to reconcile the challan details alongwith claims and the impugned order recorded the reason for rejection of the claim.

5. We have heard both the sides and perused the appeal records.

6. The dispute involved in the present appeal is relating to appellant's claim for refund of service tax paid on GTA service amounting to Rs.5,15,603/-. Admittedly, the appellants have filed different claims for different periods covering various taxable services. Their claim for refund of service tax paid on GTA service has not been rejected on merit. The Jurisdictional Supdt., upon verification of supporting documents pertaining to the present claim submitted that the refund amount of Rs.5,15,602/- was sanctioned as part of earlier claim. This aspect is being disputed by the appellant, who categorically submits that they have three refund claims spread over different period and they can establish with supporting evidence, like their month-wise liability of service tax for GTA service, challan-wise payments for such liability and claim attributable to payments already made.

7. We find the impugned order simply recorded that the appellants failed to substantiate their claim for the said amount with supporting evidence. Considering the detailed chart submitted by the appellant in the grounds of appeal (para 12.4 of the grounds of appeal), we find it necessary and proper to

remand the matter back to the Original Authority for a due verification of the claim made by the appellant with supporting documents to decide the case afresh with reference to the rejected amount of Rs.5,15,602/-. The appellants shall be given opportunity to submit evidences and records in support of their claim. Thereafter, the original authority shall examine these documents to decide the claim of the appellant.

8. In view of the above discussion and observations , the impugned order is set aside with reference to rejection of the above mentioned amount and the matter is remanded back to the original authority for fresh decision.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita