IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 1.5.2017

Appeal No. ST/53453/2014-SM

(Arising out of Order-in-Appeal No. 18/ST/DLH/2012 dated 6.2.2012 passed by the Commissioner of Central Excise (Appeals), New Delhi)

M/s Shri Shyam Metals (India) Appellant

Vs.

CST, New Delhi-I Respondent

Appearance

Ms. Shikha Bhardwaj, Advocate - for the appellant
Ms. Sakshi, C.A.

Shri G.R. Singh, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 53168/2017

Per Ashok K. Arya :

Shri Shyam Metals (India) is in appeal against the Order-in-Appeal No. 18/2012 dated 6.2.2012 whereunder the assessee appellant has been denied benefit of 75% abatement in case of service tax payable for Good Transport Agency service on reverse charge basis.

2. The brief facts are that the appellant assessee is registered under the category of Transport of Goods by Road Service with the Service Tax department. They received GTA service and discharged their service tax liability of Rs.10,898/- along with interest of

Rs.767/- at 25% of the value of GTA service after availing the benefit of Notification No. 32/2004 dated 3.4.2004 (Abatement Notification).

3. With the background of above facts, both sides represented by ld. Counsels, Ms. Shikha Bhardwaj & Ms. Sakshi and Shri G.R. Singh have been heard.

4. Ld. Counsel for the appellant submits that they gave declaration of fulfilment of condition of the Notification No. 32/2004 (supra) in the form of affidavit.

4.1 On the other hand, the department's view is that the benefit of abatement under Notification No. 32/2004-ST dated 3.4.2004 was denied as the Declaration in respect of conditions (non-availment of Cenvat credit) mentioned in the notification was not given.

5. After perusal of the facts and submissions of both the sides, it appears that the appellant is willing to give evidence/declaration that the conditions given in Notification No. 32/2004-ST (supra) have been fulfilled. Once the assessee appellant is able to fulfil the conditions given in the notification, they are entitled to benefit of

abatement of 75% regarding payment of service tax on GTA service. Therefore, the matter is remanded to original adjudicating authority, who shall de novo decide the matter after giving opportunity of personal hearing and submissions of declaration/evidence in this regard.

6. In the result, the impugned order is set aside and the appeal allowed by way of remand in above terms.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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