CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-II

Date of hearing/decision: 23.05.2017

Appeal No. ST/733/2011

[Arising out of the Order-in-Appeal No. 01(CB)ST/JPR-II/2011 dated 22/02/2011, passed by the Commissioner (Appeals) Central Excise, Jaipur

M/s Gautam Rathore … Appellant

Vs.

C.C.E, Jaipur II … Respondent

Appearance:

Present none for the appellant
Present Mrs K.V. Kumar, DR for the respondent

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

FINAL ORDER No 53422/2017

1. M/s Gautam Rathore is in appeal against Order in Appeal No. 01/2011 dated 5/01/2011, whereunder inter alia demand of service tax of Rs. 25,492/- along with interest and penalties has been confirmed.

2. The brief facts are that :

i. The appellant was holding service tax registration since year 2004 and filed ST-3 Returns up to 13/09/2005 but in the Returns did not show the entire amount of commission received on selling of units of mutual funds for the period from 01/07/2003 to 31/03/2005.

ii. Revenue, therefore, issued a show cause notice dated 06/10/2008. The demand issued by show cause notice was confirmed by the Order in Original no. 111 dated 16/08/2010 along with interest and penalties. The same was again sustained by the impugned order in appeal.

iii. Therefore, the appellant is in appeal before the Tribunal.

3. There is none present for the appellant. On earlier occasions also, when the matter was listed for hearing there was none present for the appellant. Today for the revenue, Ld. DR Shri G.R. Singh is present. He reiterates the findings given by the lower Authorities.

4. After having carefully considered the facts of the appeal and the submissions of both the sides, it

appears that the whole demand of service tax along with the interest was deposited by the appellant before issue of Order in Original. Further from the facts on record it appears that there was reasonable cause for the appellant's failure in paying the demand of service tax on time. Therefore, the penalties imposed under the provisions of Sections 76 & 78 of the Finance Act, 1994 are hereby dropped. Consequently, the impugned order is modified to above effect and the appeal partly allowed in above terms.

[Dictated and Pronounced in the open court]

Ashok K. Arya
Member (Technical)

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