CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing/decision: 13.06.2017

Appeal No. ST/52763-52764/2014 (DB)
[Arising out of the Order in Appeal No.IND-CEXUS-000-APP-40 &41/2014 (IND/CEX/000/APPL/40 & 41/14) dated 30/01/2014, passed by the Commissioner (Appeal), Central Excise, Indore]

Shiv Sai Caterer,
S.S. Sansthan Appellant

Vs.

C.C.E, Indore Respondent

Appearance:

Present Ms. Surabhi Sinha, Advocate for the appellant
Present Shri. Sanjay Jain, DR for the respondent

Coram: Hon'ble Mr. D.N. Panda, Member (Judicial)
Hon'ble Mr.Ashok K. Arya, Member (Technical)

FINAL ORDER No. 54054-54055/2017

Per D.N.Panda:

1. The appellant says that in similar such case of the appellant in respect of provision of outdoor catering service, the issue has been decided confirming the tax demand against appellant in ST/747-

748/2009 vid Final Order No 161 & 162 ST/IND/APPEAL/2013/138 dated 14/07/2016 exonerating from penalty.

2. The appellant says that due to contrary decision of different forums on the subject the assessees were in confusion as to the levy. Accordingly, levy of penalty shall be unreasonable following provision of Section 80 of the Finance Act, 1994.

3. Appreciating the difficulties faced by the appellant, levy of service tax is confirmed following judicial discipline and penalty imposed under Section 76 and 78 of the Finance Act, 1994 is waived. However, there shall be penalty of Rs.5000/- each under Section 77 of the Finance Act, 1994 for non-compliance to the law. Accordingly, both the appeals are allowed to the extent indicated above.

[Order dictated and Pronounced in the open court]

(Ashok K.Arya)
Member (Technical)

(D.N. Panda)
Member (Judicial)

RS