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/1670/2010-ST [DB]

[Arising out of Order-in-Appeal No.234/ST/DLH/2010 dated 03.09.2010 passed by the Commissioner (Appeals), Central Excise, New Delhi].

M/s.Perfect Relations Limited …Appellant

Vs.

CCE, Delhi … Respondent

Present for the Appellant : Mr.A.K. Batra, Advocate
Present for the Respondent: Mr.Ranjan Khanna, D.R.

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

Date of Hearing/Decision: 21.11.2016

FINAL ORDER NO. ___56505/2016_

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 03.09.2010 passed by the Commissioner of Central Excise (Appeals), Delhi-I.

2. Brief facts of the case are that the appellant is registered with the service tax Department under the category of business auxiliary service. The service tax Department while auditing the books of accounts for the period 2007-08, noticed that there was difference between the income received and declared in the ST-3 returns filed by the appellant. Accordingly, show cause proceedings were initiated for

recovery of the service tax demand of Rs.6,43,909/-. The matter was adjudicated by order dated 23.12.2009, wherein the service tax demand proposed for recovery in the show cause notice was confirmed alongwith interest. Besides, the penalty of Rs.5,000/- under Section 77 of the Finance Act, 1994 and Rs.6,43,909/- under Section 78 ibid was imposed on the appellant. The Adjudication Order was upheld by the ld. Commissioner (Appeals) by the impugned order. Hence, present appeal before this Tribunal.

3. Shri A.K. Batra, the ld. Consultant appearing for the appellant submits that during the period 2007-08, the appellant provided the taxable service to the tune of Rs.21,64,01,984/-, out of which Rs.18,73,965/- was claimed as exemption and on the taxable value of Rs.21,45,28,019/-, the service tax amount of Rs.2,64,51,116/- was paid into the Central Government Account. The ld. Consultant further submits that the exemption claimed by the appellant was duly reflected in the ST-3 Returns filed before the Jurisdictional Service Tax Authorities. He submits that the exemption claimed is towards the services provided to the United Nations and World Bank, which are exempt from payment of Service Tax as per Notification No.16/2002 dated 02.08.2002. He further submits that the value of taxable services were not received from the recipient of the services and accordingly, the amount of Rs.47,17,846.79 was written off as bad debt in the books of accounts. Thus, the Consultant

submits that no service tax is payable on the said amount, which was not actually received from the service receiver in terms of Rule 6 of the Service Tax Rule, 1994.

4. Shri Ranjan Khanna, the ld. AR appearing for the Revenue, on the other hand, reiterates the findings recorded in the impugned order.

5. We have heard the ld. Counsel for both sides and examined the case records.

6. We find that the Commissioner (Appeals) has dismissed the appeal of the appellant on the sole ground that the documents in support of claim of exemption were not produced either before the Audit Officer or the adjudicating authority. The certificate produced by the appellant was not taken into consideration by the Commissioner (Appeals) on the ground that no supporting documents were produced by the appellant. However, on perusal of the case records, we find that the exemption claimed by the appellant was duly reflected in the ST 3 returns and the books of accounts. Claim of such exemption has been duly certified by the practicing Chartered Accountant on verification of relevant records. We have also find from the invoices available in the case records that the services were provided to the World Bank and UNICEF, which were exempted under Notification dated 02.08.2002. Further, we find that the value of taxable service alongwith service tax

not received from the service receiver has been duly reflected in the books of accounts under the head “bad debt written off”.

7. In view of above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

(Dictated and pronounced in the open Court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita