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

COURT-I

Date of hearing/decision: 30.06.2017

Appeal No. ST/50459/2017-CU (DB)

[Arising out of the Order-in-Appeal No. 303 (AK) ST/ JPR/2015 dated 01/01/2016, passed by Commissioner (Appeals) Customs, Central Excise Commissionerate, Jaipur (Rajasthan)]

Superintendent of Police … Appellant

Vs.

CCE & ST. - Jaipur-I … Respondent

Appearance:

Present none, for the appellant
Present Shri Ranjan Khanna & Shri Sanjay Jain, DR for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

FINAL ORDER No. 54772/2017

Per: V. Padmanabhan

1. The present appeal is against Order in Appeal No. 303/2015 dated 01/01/2016. The police Department provided security personnel to various firms/ organizations and were collecting charges for security services provided by them. They were also sending personnel for character verification of candidates selected for various jobs and

collecting verification charges. The department was of the view that service tax is required to be paid on such charges recovered by the police department. After issue of show cause notice, the Original Authority confirmed the demand of service tax amounting to Rs. 16,70,214/- along with interest. When the issue was carried in appeal, the Commissioner (Appeals), vide the impugned order upheld the demand. Hence, the present appeal.

2. With the above background we heard Shri Ranjan Khanna and Shri Sanjay Jain, DR for the Revenue, however none appeared for the appellant.

3. After hearing the representative of the Revenue as well as the perusal of record we find that the issue of payment of service tax by the police department stands already decided by the Tribunal in favour of the appellant vide Final Order No. ST/A/55321-55348/2016-CU[DB] dated 25/11/2016 by observing that-

   i. *On the basis of the above discussion, we conclude that police department, which is an agency of the State Govt., cannot be considered to be a "person" engaged in the business of running security services. Consequently, the activity undertaken by the police is not covered by the definition of Security Agency under Section 64 (94) of the Act. We also find that in terms of CBEC circular on this subject, the fees collected by the police department is in the nature of fee prescribed for performing statutory function, which has been deposited into the Govt. treasury. In the light of the CBEC circular also, there can be no levy of service tax on such activities carried out by the police department.*

4. By following the decision of the coordinating bench, we set aside the impugned order and allow the appeal.

[Order Dictated & Pronounced in open court]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

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