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/58732/2013-CU [DB]

[Arising out of Order-in-Appeal No. 57/BPL/2013 dated 01.03.2013 passed by the Commissioner of Central Excise, Bhopal.]

Service Tax Appeal No.ST/57719/2013-CU [DB]

[Arising out of Order-in-Appeal No. 57/BPL/2013 dated 25.025.2013 passed by the Commissioner of Central Excise, Bhopal.]

M/s. Bhargava Labour & Security Services ...Appellant

Vs.

C.C.E., Bhopal ...Respondent

Appearance:

Mr. Sanjay Kumar Tiwari, CA for the Appellant
Mr. Ranjan Khanna, DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing.16.05.2017
Date of Decision. 18.07.2017

Final Order No. 55283-55284 /2017

Per S.K. Mohanty:

Brief facts of the case are that during the course of investigation, the officers of the preventive branch of Central Excise Head Quarter, Bhopal observed that the appellant had supplied the man power to M/s. Rio Tinto Exploration India Pvt. Ltd, Chhatarpur, but did not pay appropriate service tax in respect of such taxable service provided by it during the disputed period. Accordingly, after initiation of show cause proceedings, the service tax demand of Rs. 25, 27,534/- was confirmed along with the interest against the appellant. Besides, penalties were imposed under Section 70, 76 and 78 of the Finance Act, 1994. In appeal, the ld. Commissioner (Appeals) vide impugned order dated 01.03.2013 has upheld the adjudged service tax demand, set aside the penalties imposed under section 76 and 78 *ibid* and reduced the quantum of penalty under Section 70 *ibid* from Rs. 20,000/- to Rs. 2000/-. Feeling aggrieved with the impugned order, the appellant has filed the present appeal before the Tribunal.

2. The ld. Consultant appearing for the appellant *interalia*, submitted that the amount towards PF, ESI etc, were pure reimbursement in nature and the same should not form part of the gross value for the purpose of levy of service tax. He further submitted that in absence of any specific provisions existing in the service tax statue for levy of service tax on such reimbursable expenses, demands cannot be confirmed against the appellant.

3. On the other hand, the ld. DR appearing for the respondent reiterated the finding recorded in the impugned order.

4. Heard both sides and perused the appeal records.

5. The fact is not under dispute that the appellant had not correctly discharged it service tax liability towards providing the taxable service. Further, it had also not submitted the [illegible] records to show that the amount in question received from the service receiver are purely reimbursable in nature. Thus, service tax demand confirmed by the authorities below are in confirmity with the service tax statue. Further, we find that on proper analysis of the case records, the ld. Commissioner (Appeals) has set aside the penalties imposed under Section 76 and 78 *ibid* and also reduced quantum of penalty under Section 70 *ibid* substantially. Thus, we are of the view that the impugned order passed by the ld. Commissioner (Appeals) is well reasoned and speaking, which cannot be interfered with at this juncture.

6. Therefore, we do not find any merits in the appeals filed by the appellant. Accordingly, the same are dismissed.

(Pronounced in the open court on 18/07/2017)

(V. Padmanabhan)
Member(Technical)

(S. K. Mohanty)
Member (Judicial)

Sakshi