IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 21.7.2017

Appeal No. ST/50382/2017-SM

(Arising out of Order-in-Original No. UDZ-EXCUS-000-CUM-0038-15-16 dated 28.10.2015 passed by the Commissioner (Appeals), Central Excise & Service Tax, Udaipur)

M/s Durga Brothers — Appellant

Vs.

CCE & ST, Udaipur — Respondent

Appearance

Shri M.M. Sharma, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

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

Final Order No.55510/2017

Per Ashok K. Arya :

The appellant M/s Durga Brothers is in appeal against the Order-in-Original No. 38/15-16 dated 28.10.2015 whereunder inter alia the appellant's declaration filed under Voluntary compliance Encouragement Scheme- 2013 (VCES-2013) which is part of Chapter 6 of Finance Act, 2013, has been rejected and demand of service tax of Rs.16,08,031/- along with penalty has been confirmed.

2. The appellant also filed a writ petition before the Hon'ble High Court of Rajasthan at Jodhpur challenging the order in original dated 6.10.2015 passed by the Commissioner which is the impugned order in this appeal and whereunder the demand of service tax amounting to Rs.16,08,031/- has been confirmed. The Hon'ble High Court dismissed the said writ petition giving the petitioner liberty to avail the alternative remedy before the CESTAT. Consequently, the appellant filed this appeal before the Tribunal.

3. Both sides represented by ld. Advocate, Shri M.M. Sharma for the appellant and ld. DR, Shri K. Poddar for the Revenue have been heard.

4. The ld. Advocate for the appellant mainly pleads that their declaration VCES-2013 has wrongly been rejected and show cause notice demanding service tax for the period of 2007-2008 to 2012-2013 has been issued. The ld. Advocate also pleads that the appellant was not given enough opportunity for submission of necessary documents for claiming exemption from service tax for the supplies made to Heavy Water Plant owned by Government of India at Kota, Rajasthan.

5. The ld. DR for the Department reiterates the findings given in the impugned order.

6. After having carefully considered the facts of the case and submissions of both the sides, it appears that the appellant did not get full opportunity of defending their case and for submission of necessary documents before the adjudicating authority. Therefore, the matter is remanded back to the original adjudicating authority, who shall decide the subject matter de novo after giving necessary opportunity of personal hearing and submission of necessary documents to the appellant; all the issues are kept open for pleading by both the sides.

7. In the result, the impugned order is set aside and appeal is allowed by way of remand in above terms.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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