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

COURT-IV

Date of hearing/decision: 15.06.2017

Appeal No. ST/55094/2013(DB)
[Arising out of the Order in Original No. 186/S.Tax/D-II/12 dated 05/10/2012, passed by the Commissioner (Appeals), Central Excise, Delhi-II

Shilpkar Interiors Designers Construction P. Ltd. Appellant

Vs.

CST, Delhi Respondent

Appearance:

Present Shri P.K. Sahu, 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. 56412/2017

Per D.N.Panda:

1. It is agreed position between the parties that incidence of levy arises on Provision of taxable service under Finance Act, 1994 both under regular scheme of law or composition scheme. Such event of levy is decisive for applying the rate of tax.

2. The appellant says that when the levy was at the rate of 2 per cent under the composition scheme that does not extend to 4 per cent depending on the realization of the contract receipts since liability arose on the date of provision of service. The proposition of Ld. Counsel is correct. Accordingly Ld. Adjudicating Authority shall recalculate the liability on the basis of the rate of tax notified as applicable on the date of provision of service. At this stage, Ld. Counsel further states that the invoice was also issued on the date of incidence of the levy.
3. Further controversy is in respect of verification of certain invoices, and value of service provided by service providers. For verification of such aspect, matter is remanded to the learned adjudicating authority for examination and ascertainment of the value of the services provided on the basis of the invoices. Appellant shall provide synopsis to learned adjudicating authority with the documentary evidence to enable him to complete the examination on above aspect.
4. Recomputation of liability applying the rate applicable on the date of provision of service shall be made and

appropriate order passed providing fair opportunity of hearing on this aspect as well as aspect of invoice verification as stated above, for which remand is made to the learned adjudicating authority. It is expected that readjudication shall be completed on the above said limited issues by 31st December, 2017.

5. In the result, appeal is partly allowed and partly remanded to the extent indicated above.

[Order dictated and Pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

(D.N.Panda)
Member (Judicial)

RS