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

COURT-III

Date of hearing: 30.08.2017

Appeal No. ST/55885/2013-ST[SM]

[Arising out of the Order in Appeal No. 25(ST)/RPR-II/2012 dated 15.10.2012, passed by the Commissioner, Customs and Central Excise, Raipur]

C.C.E. & S.T.-Raipur … Appellant

Vs.

Beekay Engineering Corporation … Respondent

Appearance:
Present Shri R.K. Mishra, DR for the appellant
Present Shri H.Bajaj, Advocate for the respondent

Coram: Hon'ble Mr. S.K. Mohanty, Member (Judicial)

FINAL ORDER No. 56611/2017

Per S.K. Mohanty

Revenue has filed this appeal against the impugned order dated 15/10/2012 passed by Commissioner (Appeals), Central Excise, Raipur.

2. Brief facts of the case are that the respondent herein is engaged in the manufacture of various excisable goods and is registered with the Central Excise Department. Besides, the respondent is also registered with the Service Tax department for providing the taxable services of installation and Commissioning, Transportation of goods, Business Auxiliary Service, etc. The appellant discharges its service tax liability on GTA service as recipient of such service under reverse charge

mechanism. During the course of audit of records for the period from January 2007 to March 2008, the department had observed that freight/material handling expenses incurred in respect of its various sites is not telling with the ST-3 returns filed before the Service Tax authorities. Accordingly, the department entertained the view the respondent had short paid service tax on the GTA service. Thus, after initiation of show cause proceedings, the Original Authority adjudicated the matter and passed the order dated 27/02/2012, in confirming the service tax demand of Rs. 17,90,726/- and also imposed penalty under various provisions of the Finance Act, 1994. On appeal the Ld. Commissioner (Appeals) has set aside the adjudication order and allowed the appeal in favour of the respondent herein. Feeling aggrieved with the impugned order, the revenue is in appeal before the Tribunal.

3. Heard both sides and perused the case records.

4. I find that for allowing the appeal in favour of the respondent, the Ld. Commissioner (Appeals) has properly verified the ledger accounts maintained by the appellant and also the certificate issued by the Chartered Accountant, showing that the consolidated ledger account maintained by the respondent is towards the material handling as well as transportation charges. Since on perusal of the relevant documents, the Commissioner (Appeals) has held that there is no short payment of service tax by the respondent on account of GTA service, such findings cannot be disturbed at this

juncture, since those findings were recorded based on the records maintained by the respondent.

5. Therefore, I do not find any infirmity in the impugned order. Accordingly the appeal filed by the revenue is dismissed.

[Order dictated and pronounced in the open court]

(S.K.Mohanty)
Member (Judicial)

Rekha