CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 56877 of 2013

(Arising out of Order-in-Appeal No. 04(ST)/RPR-I/2013 dated 08.01.2013 passed by the Commissioner (Appeals-I) Customs & Central Excise, Raipur**)**

DATE OF HEARING : 26.09.2017
DATE OF DECISION : 26.09.2017

CCE, Raipur …. **Appellant**
(Rep by Sh. Sanjay Jain, DR)

VERSUS

M/s Sabir Brothers …. **Respondents**
(Rep. by NONE)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 56885/2017

PER B. RAVICHANDRAN :

The Revenue is in appeal against the Order-in-Appeal No. 04(ST)/RPR-I/2013 dated 08.01.2013 passed by the Commissioner (Appeals-I) Customs & Central Excise, Raipur. The dispute involved is relating to the liability of the assessee-Respondents to pay Service Tax with reference to contract entered into with Bharat Sanchar Nigam Ltd. (BSNL) for laying cables etc. The original authority as well as the impugned order discusses about the payment of Service Tax of Rs. 47,20,127/- for the period 2006-07 to 2009-10 under the category of "Erection, Commissioning or Installation Services". The original authority disputed such payment in the absence of supporting documentary evidence, whereas the impugned order simply accepted such payment as 'Erection and Commissioning' service.

2. The learned DR while explaining the grounds of appeal, submitted that the impugned order fell in error in presuming such payment without proper verification. None appeared on behalf of the assessee-Respondents despite notice.

3. We have heard Shri Sanjay Jain, learned DR for the Revenue and perused the material available on record. Since the fact in dispute is with reference to the payment made towards Service Tax by the assessee-Respondents, we find that the same can be verified by the original authority. As the whole dispute is revolving around the correctness of the payment made by the assessee-Respondents, we find it fit and proper to set aside the impugned order and remand the matter to the original authority for factual verification. The assessee-Respondents may be given reasonable opportunity to present their case with liberty to file additional evidence, if any, as per law.

4. In the result, appeal filed by the Department is allowed by way of remand.

(Dictated & pronounced in the open court)

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(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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