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

Date of Hearing/Decision: 27.09.2017

Appeal No. ST/56845/2013-SM

(Arising out of Order-in-Appeal No. 09/BPL/2013 dated 07.01.2013 passed by the Commissioner (Appeals) Central Excise, Customs & Service Tax, Indore)

Nagar Palika Nigam — Appellant

Vs.

CCE & ST Bhopal — Respondent

Appearance

M.K. Sharma, CA - for the appellant

Shri K.Poddar, DR - for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**

Final Order No. 56913/2017

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein demand has been confirmed by invoking extended period of limitation and penalty under Section 76 of the Finance Act, 1994 is also imposed.

2. The facts of the case are that the appellant is a statutory Nagar Palik Nigam Rewa, Madhya Pradesh. The appellant was under the impression that they were not required to pay service tax for providing space for putting hoardings and for letting out their properties on rent to various shops the appellant did not pay service tax during the period June 2005 to December, 2009. The show cause notice was issued by invoking extended period of limitation on 23/07/2010. The appellant paid entire amount of service tax along with interest which falls within limitation and praying that being a

government body, there is no malafidee intent of the appellant not to pay service tax. In that circumstance, extended period of limitation is not invocable as well as no penalty is imposable on the appellant. Therefore, the appellant is in appeal against the impugned order.

3. The Ld. AR opposed the contention of the Ld. Counsel and submits that the appellant was under confusion not to pay service tax but when it was cleared that they have to pay service tax, therefore, they have to pay demand of service tax beyond the period of limitation also.

4. Heard the parties and considered the submissions.

5. In this case, there was a confusion whether rentings of immovable property service is taxable or not during the impugned period. In that circumstance, the extended period of limitation is not invocable. Moreover, the appellant being a statutory body of Government of Madhya Pradesh, it cannot be alleged that appellant were having any malafidee intentions not to pay service tax.

6. In that circumstances, I hold that extended period of limitation is not invocable. Therefore, the demands pertains to extended period of limitation are set aside. Consequently, I hold that no penalty is imposable on the appellant. Therefore, penalty imposed on the appellant is also set aside.

5. In above these terms the appeal is allowed.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

Rekha