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

COURT NO. I

DATE OF HEARING : 10/10/2017.
DATE OF DECISION : 10/10/2017.

Service Tax Appeal No. 59395 of 2013

[Arising out of the Order-in-Appeal No. 92 (ST)/RPR-I/2013 dated 15/05/2013 passed by The Commissioner (Appeals), Central Excise & Customs, Raipur.]

Shri Atul Srivastava — Appellant

Versus

CCE & ST, Raipur — Respondent

Appearance

Shri A.K. Mishra, Consultant - for the appellant.

Ms. Neha Garg, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 57217/2017 Dated : 10/10/2017

Per. B. Ravichandran :-

The appellant in the present appeal is disputing their tax liability with reference to consideration of Rs. 22 lakhs received from Chhattisgarh Housing Board with reference to a contract work executed by them. They are contending that the said contract is with reference to construction of WBM road for the client, whereas the Revenue is contending that this is a taxable service of site formation, clearance, excavation, earth moving and demolition work. During the course of argument, the learned Counsel for the appellant submitted that from the general abstract signed by the Executive Engineer of Chhattisgarh Housing Board as well as the abstract estimate for the said work approved by the Executive Engineer, Housing Board Chhattisgarh, it is clear that the said consideration is relatable to road work only.

2. The learned AR contested the submission of the learned Counsel stating that the said fact is not emerging out of the documents now presented. The general abstract for WBM road as approved by the Executive Engineer talks about Rs. 7.6 lakhs only, whereas the abstract estimate submitted by the appellant talks about total of Rs. 22 lakhs. The said being only a estimate would perhaps relates to pre-tendar process. In the absence of clarity regarding the actual reason for receipt of the said consideration, it will not be possible for the Revenue to accept the plea of the appellant for exemption as a road work.

3. We note that the matter requires factual verification as the learned Counsel for the appellants promised that they will be able to support their claim with documents of the contemporaneous period, supported by the client’s approval. Accordingly, we set aside the impugned order and remand the matter to the Original Authority for a fresh consideration about the actual nature of work as claimed by the appellant with supporting documents.

With these observations, the matter is remanded back to the Original Authority who shall provide adequate opportunity to the appellant to submit all their defence before a decision is taken. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open court.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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