IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing:10.10.2017
Date of Decision:25.10.2017

Service Tax Appeal No.52707/2016(DB)

[Arising out of Order-in-Appeal No.114(AK)ST/JPR/2016 dated 15.04.2016 passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur]

M/s.Krishi Upaj Mandi Samiti — Appellants

Vs.

CCE, Jaipur — Respondent

Appearance:

Rep.by none for the appellant.
Rep. by Shri Ranjan Khanna and Shri Sanjay Jain, DR for the respondent.

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order 57350/2017

Per B. Ravichandran:

The appeal is against order dated 15.04.2016 of Commissioner of Central Excise (Appeals), Jaipur. The appellants are engaged in the activity of regulating trading of agricultural produce in terms of Rajasthan Agricultural Produce Market Act, 1961. They are responsible for general deployment of market space by way of providing necessary amenities and facilities. They issue licenses to the traders. The main source of income of the appellant is 'Mandi Shulk', which is collected from the licensee /shopkeeper on trading of agricultural produce and consideration received for renting out of immovable property in the mandi area to the brokers for which rent is collected. Proceedings were initiated against the appellant to demand and recover service tax under the category of "Renting of Immovable Property

Service” in terms of Section 65(105)(wzwz) read with Section 65(90a) of Finance Act, 1994. The period of dispute is from October, 2007 to June, 2012. The lower authorities confirmed a service tax liability of Rs.11,02,841/- against the appellant. The penalties under Section 76, 77 and 78 of the Act were also imposed on the appellant. The appellants contested the findings in the present appeal.

2. When the case was called, none appeared on behalf of the appellant.

3. Ld. AR informed that the service tax liability on Krishi Upaj Mandi Samiti in various places of Rajasthan has already been a subject matter of decision by the Tribunal in a bunch of appeals in similar set of facts. The Tribunal decided the issue vide Final Orders No.53436-53500 of 2017 dated 25.05.2017. He submitted that the present appeal also can be disposed of in the above terms.

4. We note that the Tribunal, examining similar set of facts in respect of the same organization, concluded as below:-

> "(I) The appellants are liable to pay service tax under the category of “renting of immovable property service” for the period upto 30.06.2012.
>
> (II) For the period from 1.7.2012 (Negative List Regime), the appellants are not liable to pay service tax under the said tax entry in respect of shed/shop/premises leased out to the traders/others for storage of agricultural produce in the marketing area. The Negative List will not cover the activities of renting of immovable property for other than agricultural produce.

(III) The demands, wherever raised invoking extended period, shall be restricted to the normal period. Penalties imposed on the appellants are set aside.

(IV) The threshold exemption available to the small scale service provider in terms of the applicable notifications during the relevant years, shall be extended to the appellant on verification of their turnover. "

5. As the Tribunal has examined the issue in appellant's own case, for different locations and concluded as above, the present appeal is also disposed of in line with the above observation.

[order pronounced on 25.10.2017]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.