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. IV

DATE OF HEARING : 03/11/2017.
DATE OF DECISION : 03/11/2017.

Service Tax Appeals No. 60206 of 2013 and 60470 of 2013

[Arising out of the Order-in-Appeal No. 83 (VC)/ST/JPR-I/2013 dated 31/07/2013 and No. 113 (VC)/ST/JPR-I/2013 dated 04/09/2013 both passed by The Commissioner (Appeals) Customs & Central Excise, Jaipur – I.]

M/s Manorma Creation] Appellants
M/s Arun and Company]

Versus

CCE & ST, Jaipur – I Respondent

Appearance

Shri Alok Kothari, Advocate – for the appellants.

Shri Sanjay Jain, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 57684-57685/2017 Dated : 03/11/2017

Per. B. Ravichandran :-

These two appeals though by different appellants are dealing with identical issues and hence are taken up together for disposal. The appellants are engaged in erection, commissioning and installation of petrol pumps for iron marketing companies. The dispute in the present appeals is quantification of tax liability to be discharged by the appellants. The appellants are not contesting their tax liability for the said service. They are only pleading that the services are composite in nature involving supply of materials alongwith provision of service and, as such, specifically covered under the tax entry "works contract service". Under the said service, the appellants pleaded that they are liable to pay service tax after availing the concession of composition in terms of Works Contract (Composition Scheme for payment of Service Tax) Rules, 2007. The appellants pleaded that they have discharged service tax on such calculation alongwith interest wherever applicable. They prayed for setting aside the excess demand and also penalties imposed on them.

2. We have heard both the sides and perused the appeal records. The lower authorities while holding that the appellants executed various contracts which may involve supply of materials disallowed the claim of the appellant on the ground that the details of full contract was not made available and there is no contract-wise option exercised for the composition scheme. We note that the appellants submitted copies of contracts and it is revealed that all contracts involved supply of materials and are composite in nature. With reference to intimation, we note that the appellants did file intimation for availing the composition scheme. On careful perusal of the impugned orders, we note that the claim of the appellant for discharging service tax under works contract service availing composition scheme cannot be denied.

Accordingly, we allow the appeals to this extent by setting aside the impugned order. The penalties imposed on the appellants were also set aside.

(Order dictated and pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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