IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –IV

Service Tax Appeal No.ST/52575/2014-CU [DB]

[Arising out of Order-in-Appeal No.15/ST/DLH/2014 dated 29/01/2014 passed by the Commissioner (Appeals), Central Excise, Jaipur-I]

Religare Enterprises Ltd. …Appellant

Vs.

C.S.T., Delhi … Respondent

Present for the Appellant : Mr. Rachit Jain, Advocate
Present for the Respondent: Mr.Ranjan Khanna, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 09/11/2017

FINAL ORDER NO. 57995/2017

PER: B.RAVICHANDRAN

The appellant is aggrieved by the order dated 29.01.2014 of the Commissioner (Appeals), Delhi-I. The appellant have entered into the joint venture agreement with AEGON, Netherland in order to enter a business of insurance service in the name and title of AEGON Religare Life Insurance Company Ltd. The joint-venture was originally between AEGON and Ranbaxy. The appellant later substituted Ranbaxy. The dispute in the present appeal relates to tax liability of the appellant on the consideration paid as reimbursement charges to the joint venture partner (AEGON) for providing Bank guarantee for capital protection in terms of the J.V. Agreement. AEGON, Netherlands is obligated to provide capital protection for the joint-venture, which they have done through a bank guarantee. For that in terms of the agreement, the appellant has to reimburse the charges for obtaining the said guarantee. The Revenue held a view that such charges paid by the appellant to AEGON shall be liable to tax under the category of business support service. The lower authorities affirmed such view and confirmed the tax demand alongwith penalties.

2. The ld. Counsel contested the findings on the ground that the transaction is part and parcel of joint-venture agreement and in pursuance of business activity to set up and manage such joint-venture. Transaction between partners of joint-ventures will not qualify as transaction between service provider and service recipient. He submitted that there is no analysis by the lower authorities as to how the appellant have provided any business support service to an independent service recipient.

3. The ld. AR supported the findings of the lower authorities and stated that the appellant is an independent company

receiving service from AEGON, Netherlands and as such are correctly taxed under Section 66A of Finance Act, 1994.

4. We have heard both sides and perused the appeal records. The joint- venture agreement originally entered into between AEGON and Ranbaxy dated 28.12.2006 provides for capital protection. The guarantee has to be provided by AEGON, Netherlands. They have provided the said capital protection by way of LC of ABN Amro Bank. In terms of the same J.V. Agreement, the appellant has to reimburse the cost incurred for such LC. Admittedly, the transaction is in pursuance of a joint-venture agreement for the joint business between AEGON and the appellant. It cannot be construed that AEGON supported the business of the appellant and provided BSS. Both AEGON and appellant jointly promoted their new business and in pursuance of such intention made the capital protection arrangement and the payments are towards such arrangements. There is no third party involved and there is no relationship of service provider and service recipient, as the activity is for the joint benefit of parties in joint-venture. In effect, admittedly, these are part of shared responsibilities. In pursuance of such a joint-venture, we find no scope of tax liability in such arrangement.

5. In view of the above discussion and analysis, we find no merit in the impugned order. The same is set aside and the appeal is allowed.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN) **MEMBER (TECHNICAL)**	**(S.K. MOHANTY)** **MEMBER (JUDICIAL)**

Anita