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

Date of Hearing/Decision:10.11.2017

Service Tax Appeal No.ST/839/2011-DB

[Arising out of Order-in-Original No.03/2011/ST/JPR-II-Commissioner dated 8.3.2011 passed by the Commissioner of Central Excise, Jaipur-II]

CCE, Jaipur Appellant

Vs.

M/s.Jodhpur Pradushan Nivaran Trust Respondent

<u>Appearance</u>:

Rep. by Shri Sanjay Jain, AR for the appellant.
Rep. by Shri O.P.Agarwal, CA for the respondent.

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

Final Order No.58094/2017

<u>Per S.K. Mohanty:</u>

Revenue is in appeal against the impugned order dated 3.3.2011 passed by the Commissioner of Central Excise, Jaipur-II.

2. The brief facts of the case are that the respondent is a registered trust, established with the objective of collecting effluent water from its member-units for the purpose of cleaning. For the said purpose, the appellant had set up a common Effluent Treatment Plant (CEPT). For providing the service to the member –units, the appellant collects Membership fees, connection fees and pollution cess. The Service Tax Department entertained the view that the charges collected by the appellant from its member-units should be liable for payment of service tax under the taxable category of "Club or Association Service". Accordingly, show cause notice proceedings were initiated by the Department, seeking confirmation of service tax against the appellant. The show cause notice

was adjudicated vide the impugned order, wherein the proposals made against the appellant were dropped.

3. Herd both the sides and perused the case records.

4. The Central Government vide Notification No.42/2011-ST dated 25.07.2011, as amended by Notification No.01/2012-ST dated 17.03.2012 has exempted "Club or Association Service" provided by an association of registered cooperative societies in relation to treatment and recycling of effluents and solid waste discharged by units from whole of the service tax leviable thereon. Further, vide Section 145 of the Finance Act, 2012, such exemption provided in the notification dated 25.07.2011 has been given retrospective effect from 16.06.2005. In view of the fact that the period involved in this case is well covered within the time frame prescribed under Section 145 ibid, we are of the view that dropping of the proposed demand in the adjudication order is legally sustainable.

5. Therefore, we do not find any merit in the appeal filed by the Revenue and accordingly, the same is dismissed.

[Order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.