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/60020/2013- CU [DB]

[Arising out of Order-in-Appeal No.120 (ST) RPR-I/2013 dated 15.07.2013 passed by the Commissioner (Appeals), Central Excise & Customs, Raipur]

Vandana Auto …Appellant

Vs.

C.C.E., Raipur … Respondent

Present for the Appellant : Mr.A.K. Mishra, Advocate
Present for the Respondent: Mr.P.Juneja, D.R.

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

Date of Hearing / Decision : 21/11/2017

FINAL ORDER NO. __58137/2017__

PER: B.RAVICHANDRAN

The appeal is filed against the impugned order dated 15.07.2013 Commissioner (Appeals), Central Excise & Customs, Raipur. The appellants are engaged in the service of authorized service station and were discharging Service Tax. The value adopted for payment of service tax was disputed by the Revenue. Proceedings were initiated against the appellant for not including the PDI charges and jobing charges etc. in the taxable value. The appellant contested the demand. Though the original authority confirmed the service tax liability as proposed in the notice, on appeal, the Commissioner (Appeals) excluded the PDI charges from the tax value relying on the decided cases. He upheld the service tax liability on job charges, which the appellant claimed to be an activity of out-sourced service reimbursed from the client.

2. The ld. Counsel contesting the findings of Commissioner (Appeals) submitted that during the course of providing service as authorized service station, they outsourced certain work as job work to outside persons. These, job works like painting, aligning of wheels, boring of engines etc. are services for which they were paying and getting the same reimbursed from the client. On such basis, the ld. Counsel claimed that these are to be excluded from the taxable value.

3. The ld. AR. supported the finding of the lower authority stating that any claim for exclusion from taxable value on the basis of reimbursed nature of expenditure should be clearly supported by documents. In the absence of such documents there can be no exclusion.

3. We have heard both sides and perused the appeal records.

4. The claim of the appellant is that certain work is got done from outside for which they incurred some expenditure. Thus expenditure is reimbursed by the clients when they raise bill for total service charge. The appellants relied on their annual balance sheet to support their claim for exclusion of job charges. While on principle the taxable value may not include the actual expenditure incurred by the appellant on behalf of a client and got reimbursed from the client without any mark up as per the prearrangement, we note that these facts are to be evidenced by supporting documents. In the present case except for the claim of the appellant that these are job charges, which are reimbursed by the client, we have no supportive evidence. In the absence of evidence to the effect that these expenditure are incurred by the appellant on behalf of the client and they were reimbursed on actual basis, without any mark up, we are not able to consider the plea of the appellant for such exclusion. Accordingly, the appeal fails and the same is dismissed.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita