CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 50440 of 2014

(Arising out of Order-in-Appeal No. 213-ST-DLH-2013-24-09-2013 dated 03.10.2013 passed by the Commissioner of Central Excise (Appeals), New Delhi)

DATE OF HEARING : 04.12.2017
DATE OF DECISION : 04.12.2017

M/s Raj Kumar Rakesh Kumar …. Appellants
(Rep by NONE)

VERSUS

CST, Delhi …. Respondent
(Rep. by Sh. R.K. Manjhi, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 58281/2017

PER B. RAVICHANDRAN :

The present appeal is filed by the assessee-Appellants against the Order-in-Appeal No. 213-ST-DLH-2013-24-09-2013 dated 03.10.2013 passed by the Commissioner of Central Excise (Appeals), New Delhi. The period in dispute is January and March, 2005.

2. When the matter is taken up for hearing, none appeared on behalf of the assessee-Appellants. We have heard

Shri R.K. Manjhi, learned DR for the Department and proceeded to decide the appeal on the basis of the case record. The impugned order upheld the original order with reference to liability of the assessee-Appellants for Rs. 61,147/- towards Service Tax under GTA services. We note that the only reason mentioned in the show cause notice is that, the assessee-Appellants are only a consignee or consignor of the goods and hence, being not a Goods Transport Agency (GTA), not eligible to claim exemption under Notification No. 32/2004 dated 03.12.2004.

3. We note that the assessee-Appellants were put the tax liability as a GTA on reverse charge basis in terms of Service Tax Rules, 1994. We also note that when the assessee-Appellants are put to tax liability as a GTA, then the exemption, as available, cannot be denied to them only on the ground that they are only a consignee or consignor of the goods. We find that no such reason is mentioned in the Notification (supra). Accordingly, the impugned order is set aside and the appeal is allowed.

4. In the result, the appeal filed by the assessee-Appellants is allowed.

(Dictated & pronounced in the open court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay