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/DECISION : 14/12/2017.

Service Tax Appeal No. 60371 of 2013

[Arising out of the Order-in-Appeal No. 176/S. Tax/D-II/2013 dated 19/08/2013 passed by The Commissioner of Central Excise (Appeals), New Delhi.]

M/s Chatarpal Sharma — Appellant

Versus

CCE, Delhi – II — Respondent

Appearance

Shri A.K. Batra, Consultant – for the appellant.

Shri P. Junena, 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. 58576/2017 Dated : 14/12/2017

Per. S.K. Mohanty :-

This appeal is directed against the impugned order dated 19/08/2013 passed by the Commissioner (Appeals), Service Tax, New Delhi.

2. The applicant is not contesting the tax liability confirming against it. However, the grievance of the appellant is that the quantification of the adjudged demand of Rs. 25,560/- has been

made on mercantile basis, instead of cost basis i.e. on the un-realised amount as on 31/03/2008. The further grievance of the appellant is that the benefit under Notification No. 6/2005-ST dated 01/03/2005 in respect of the small scale exemption has not been considered for the financial years 2007-2008 and 2008-2009, which has resulted in addition of Rs. 1,91,194/- in the gross value, for the purpose of computation of service tax demand.

3. The learned Consultant appearing for the appellant submits that though the relevant documents were submitted before the lower authorities, but the same were not considered and the adjudged demand was confirmed against the appellant.

4. The learned AR appearing for the Revenue reiterates the findings in the impugned order.

5. Heard both the sides.

6. We find that the submissions of the appellant regarding SSI benefit and computation of service tax on cash basis, instead of mercantile basis were not considered by the authorities below on the ground that necessary documents were not produced by the appellant to demonstrate such claim. However, since the appellants submits that the documents are available with it to support its claim for setting aside the demand, we are of the view the matter should go back for fresh fact finding with regard to

the computation of the actual service tax liability, on the basis of the documents to be submitted by the appellant.

7. Accordingly, after setting aside the impugned order, we remand the matter to the Original Authority for passing of fresh adjudication order by considering the submissions of the appellant that it is entitled for the benefit as claimed.

8. In the result, the appeal is allowed by way of remand.

(Order dictated and pronounced in the open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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