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

Date of Hearing/Decision:29.12.2017

Service Tax Appeal No.50506/2014-DB

[Arising out of Order-in-Original No.Commissioner/RPR/ST/102/2013 dated 30.09.2013 passed by the Commissioner of Central Excise and Customs, Raipur]

M/s.Tirupati Roadlines — Appellant

Vs.

CST, Raipur — Respondent

Appearance:
Rep. by Shri A.K. Batra, CA for the appellant.
Rep. by Shri Amresh Jain, AR for the respondent.

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No.58711/2017

Per B. Ravichandran:

The present appeal is filed against the order-in-original dated 30.09.2013 passed by the Commissioner of Central Excise and Customs, Raipur. The appellant is subjected to service tax liability under the category of "Mining Service" for the period 1.4.2007 to 31.03.2011. The appellant had entered into 'transportation agreement" for movement of coal from coal face to railway siding/dumps/stock yard etc within the mine area. The tax liability is confirmed on transportation charges.

2. At the outset, ld. Counsel appearing for the appellant submitted that the issue is no more res integra in view of the decision of the Hon'ble Supreme Court in the case of **Singh Transporters – 2017 –TIOL-249-SC-ST,** wherein it was observed as under :-

> "6. Be that as it may, even if the relied upon judgment in the case of Arjuna Carriers (supra) is of no consequence to the present case, we are of the view that the activity undertaken by the respondent i.e. transportation of coal from the pit-heads to the railway sidings within the mining areas is more appropriately classifiable under Section 65(105)(zzp) of the Act, namely, under the head "transport of goods by road service" and does not involve any service in relation to "mining of mineral, oil or gas" as provided by Section 65(105)(zzzy) of the Act.
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> 7. The reliance placed on the definition of the term "mines" under Section 2 (j) of the Mines Act, 1952 does not assist the Revenue inasmuch as what would be indicated by the said definition is that a mine is not to be understood necessarily in respect of pit-heads of the mining area or the excavation or drilling underground, as my be, but also to the peripheral area on the surface. The said definition has no apparent nexus with the activity undertaken and the service rendered"

3. Heard both the sides and perused the appeal records.

4. In view of the above categorical finding of the Hon'ble Supreme Court in the above cited case, we find no reasons to sustain the finding of the impugned order and the same is set aside. The appeal is allowed. Ordered accordingly.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.