CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal Nos. 886-887 of 2011

(Arising out of Order-in-Appeal No. IND/116&117/2011 dated 14.03.2011 passed by the Commissioner of Customs & Central Excise (Appeals), Indore)

DATE OF HEARING : 16.01.2018
DATE OF DECISION : 16.01.2018

M/s Shiv Sai Caterer & Suppliers ….. **Appellants**
M/s S.S. Sansthan (Rep. by Sh. Kumar Vikram, Adv.)

VERSUS

CCE, Indore ..… **Respondent**
(Rep by Sh. Sanjay Jain, DR)

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

FINAL ORDER NO. 50194-50195/2018

PER JUSTICE (Dr.) SATISH CHANDRA :

Both the present appeals are filed by the assessee-Appellants against the Order-in-Appeal No. IND/116&117/2011 dated 14.03.2011 passed by the Commissioner of Customs & Central Excise (Appeals), Indore. The period in dispute is October 2007 to March, 2009.

2. The brief facts of the case are that, the assessee-Appellants are providing outdoor catering services and availing benefit of exemption under Notification No. 21/2004-ST dated 10.09.2004, which

was subsequently withdrawn vide Notification No. 02/2006-ST dated 01.03.2006. Therefore, for the period under consideration, the lower authorities has demanded the Service Tax and imposed penalties. Being aggrieved, the assessee-Appellants have filed the present appeals.

3. With this background, we have heard Shri Kumar Vikram, learned counsel for the assessee-Appellants and Shri Sanjay Jain, learned DR for the Department.

4. After hearing both sides and on perusal of the material available on record, it appears that the matter has come up before the Tribunal in the assessee-Appellants' own case and the Tribunal vide Final Order No. 52467-52468/2016 dated 14.07.2016 and Final Order No. 54054-540552017 dated 13.06.2017 confirmed the demand of Service Tax, but by taking a lenient view dropped the penalties.

5. By following our earlier orders (supra), we confirm the demand of Service Tax and drop the penalties by invoking the provisions of Section 80 of the Finance Act, 1994.

6. In the result, both the appeals filed by the assessee-Appellants are partly allowed.

(Dictated & pronounced in the open court)

(JUSTICE DR. SATISH CHANDRA)
PRESIDENT

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

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