CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 23.01.2018
Date of Decision: 30.01.2018

Appeal No. ST/620/2011- (DB)
[Arising out of the Order-in-Original No. OIA-25/COMMISSIONER/2010dated 30/11/2010 passed by Commissioner of Service Tax-DELHI – I]

MTNL Appellant

Vs.

C.S.T. Delhi Respondent

Appearance:
Present Ms Mansi Batra, Advocate for the appellant
Present Shri A.K. Singh, AR for the respondent

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

FINAL ORDER No. 50358/2018

Per: V. Padmanabhan

1. The present appeal is against the Order-in-Original No 25/2010 dated 30/11/2010. The dispute covers the period 2001-02, 2002-03. . During the course of audit of assesee, the departmental officers scrutinized the balance sheet for the relevant periods and found huge amounts shown under "unaccounted receipt". It was explained that this was due to non-identification of the subscribers by the computer whose contact numbers were wrongly printed in the telephone bill. Since MTNL failed to reconcile the accounts to the satisfaction of departmental officers, Order-in-Original 12/2007 dated 06/07/2007 was passed by the Adjudicating Authority in the first round of litigation resulting in demand of service tax amounting to above Rs. 11 crores. When the appeal was considered by the Tribunal against this order of the adjudicating authority, the same

was set aside and issue remanded for reconsideration in the light of the detailed reply of the appellant. The present order-in-original has been passed in the de novo proceedings in which bulk of the demand to the extent of Rs. 10.90 crores was dropped by the adjudicating authority after successful reconciliation by the appellant. However, small amount of Service Tax of Rs. 7,70 Lakhs was demanded. However, interest was charged by the adjudicating authority. Aggrieved by the impugned order the present appeal has been filed.

2. With the above background the case was heard today in which Ms Mansi Batra, Ld. Counsel for the appellant submitted written arguments. She prayed that the case may be decided on the basis of written argument. Revenue was represented by Shri A K Singh, Ld. DR who reiterated the impugned order.

3. Heard both sides and perused the record. In the written submission filed on behalf of the appellant, it has been argued that the Ld. Commissioner in the impugned order has decided the issue in favour of MTNL and dropped most of the demand for service tax. It has been submitted that since the demand for service tax has been dropped there is no justification for demand of interest.

4. After going through the impugned order we find that the appellant has collected the consideration for the services rendered along with service tax thereon. It is further seen that such service tax amounts have also been remitted to the Government but the adjudicating authority has found that there is a time gap between the time, the

service tax is recovered from the subscribers and the payment of the same to the credit of the Government. It has been estimated that the average delay is of two months and accordingly charged interest. We find that the decision taken by the adjudicating authority is fair and reasonable. It is on record that the service tax amount collected by MTNL has been paid to the Government only after delay.

Hence, the charging of interest is upheld. The demand of Service tax of a small amount along with interest and penalty is also upheld.

5. In the result, the impugned order is upheld and the appeal is dismissed.

[Order Pronounced in the open court on _30/01/2018_]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

Rekha