

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 01.02.2018

S.T. Appeal No. 52883 of 2014
(Arising out of order in original No. 09-10(VC) ST/JPR-I/2014 dt. 24.02.2014
passed by the Commissioner (Appeals), Central Excise, Jaipur-I)

Dinesh Kumar Likhyani Appellant

Vs.

CCE, Jaipur Respondent

Appearance:

Ms. Surbhi Sinha, Advocate for the appellant
Sh. P. Juneja, AR for the Respondent

Coram:

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

Final Order No. 50687/2018

Per: **Justice (Dr.) Satish Chandra:**

The present appeal is filed against the order in original No. 09-10(VC) ST/JPR-I/2014 dt. 24.02.2014 passed by the Commissioner (Appeals), Central Excise, Jaipur-I.

2. The appellant is engaged in providing the "Business Auxiliary Service" which attracted Service Tax. But they have not obtained service tax registration and not paid any service tax for the period 01.07.2003 to 31.03.2005. Ld. Counsel for the appellant submits that the original order was passed on 31.08.2010, but the same was never received by the appellant. She has drawn our attention to the letter dated 29.06.2012, written by the Deputy Commissioner where it is stated that order has already been sent to you by the

Department which has not yet been received back as undelivered. Only after receiving the order dated 29.06.2012, the appellant has filed the appeal before the adjudicating authority. The lower authority has dismissed the appeal being time barred. Being aggrieved, the present appeal is filed by the appellant.

4. From the above, it appears that the appellant got the order only on its request because earlier order was never received by the appellant. This is a reasonable reason.

5. Hence, we condone the delay for the reasons mentioned in the appeal and remand the matter to the original authority to decide the matter on merit, but by providing an opportunity of hearing to the appellant, as per law. Fresh evidence, if need be, may be admitted as per law.

6. In the result, the appeal filed by the appellant is allowed by way of remand.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant