IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –IV

Service Tax Appeal No.ST/60148-60149/2013- CU [DB]

[Arising out of Order-in-Appeal No.227 & 228 /VC/CE/JPR-II/ 2013 dated 16.07.2013 passed by the Commissioner (Appeals), Central Excise-II, Jaipur]

M/s. Anand Kumar & Co.
M/s. Bimal Singh Binod Kumar …Appellant

Vs.

C.C.E., Jaipur-II … Respondent

Present for the Appellant : Mr.O.P. Agarwal, Advocate
Present for the Respondent: Mr.R.K. Maji, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 23.02.2018

FINAL ORDER NO. 50904-50905/2018

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 16.07.2013 passed by the Commissioner, Central Excise (Appeals), Jaipur. In this case, the services provided by the appellant to various Tea companies as consignment agents were interpreted by the Department that the same should fall under the taxable category of C & F Agent service.

Accordingly, the service tax demands were confirmed against the appellant.

2. The ld. Consultant appearing for the appellant submits that as a consignment agent, the appellant sold the goods to various customers and issues the invoices, indicating the element of VAT, which were subsequently deposited with the State Government. Thus, he submits that the consignment agent should not fall under the category of "Clearing and Forwarding Agent Service", for the purpose of levy of service tax. To support such stand, the ld. Consultant has relied on the decision of this Tribunal - Final Order No. 58642-58643/2017 dated 15.12.2017, in the case of Santani Sales Organisation and also the Final Order Nos. 51786-51787/2017 dated 14.02.2017 in the case of the same appellant, wherein the Tribunal has set aside the demand, holding that consignment agent cannot be called as the C & F agent for the purpose of payment of service tax.

2. On the other hand, the ld. DR appearing for the Revenue reiterated the findings recorded in the impugned order.

3. Heard both sides.

4. We find that the issue arising out of the present case, whether the activity of consignment agent should be covered under the purview of the taxable service of C & F agent service, is settled by this Tribunal in the decisions cited by the

appellant. The Tribunal vide Final Order dated 14.02.2017, in the case of Santani Sales Organisation has held that consignment agent cannot be termed as C & F agent for the purpose of payment of service tax. The relevant paragraph in the said order is extracted herein below:-

> *"5. After hearing both sides and on perusal of record, it appears that identical issue has come up in the case of CCE&C vs. Trade Tek Corporation – 2013 (29) STR 23 (Guj.) where it was observed that the consignment agent cannot be treated as C&F Agent, hence, no service tax can be demanded. Similar ratio was also laid-down in the following cases: (i) CCE&ST, Bangalore vs. Transasia Sales Syndicate – 2007 (8) STR 467 (Tri. Bang.) (ii) Tradex Polymers Pvt. Ltd. vs. CST, Ahmedabad- 2014 (34) STR 416 (Tri. Ahmd.) (iii) Hanuman Coal Co. vs. CCE, Kanpur – 2011 (22) STR 350 (Tri. Del.) (iv) R. K. Paliwal vs. CCE, Kanpur – 2012 (26) STR 567 (Tri. Del.) (v) CCE, New Delhi vs. DCM Textiles- 2006 (195) ELT 129 (SC)."*

5. In view of the above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeals in favour of the appellant.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN) **MEMBER (TECHNICAL)**	**(S.K. MOHANTY)** **MEMBER (JUDICIAL)**

Anita