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

Date of Hearing:28.02.2018
Date of Decision:16.03.2018

Service Tax Appeal No.55409/2014(DB)

[Arising out of Order-in-Appeal No.IND/CEX/000/APP/110/2014 dated 12/06/2014 passed by the Commissioner (Appeals), Customs & Central Excise, Indore]

Shubham Mangalam Steel Pvt.Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance:

Rep. by none for the appellant.
Rep. by Shri Sanjay Jain, AR for the respondent.

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

Final Order No.51028/2018

Per B. Ravichandran:

This appeal is against order dated 8.7.2014 of Commissioner (Appeals), Indore. The appellant is engaged in the manufacture of TMT bars and was a SSI Unit. They were registered with the Central Excise Department but have not paid service tax on the GTA services availed for inward movement of goods to their factory. The appellant was liable to pay such service tax on reverse charge basis in terms of Rule 2 (1) (d)(v) of the Service Tax Rules, 1944. Accordingly, inquiries were conducted regarding non-payment of service tax. The appellant paid the service tax liability in full for the past period along with applicable interest for delay in payment of the said tax. However, show cause notice dated 10.01.2013 was issued to confirm the service tax liability and to impose penalties under various provisions of Finance Act, 1994 read with Service Tax Rules, 1994. The Original Authority as well as first Appellate Authority confirmed the tax liability of Rs.18,503/- along with interest and imposed penalties under Section 77 and 78 of the Finance Act, 1994.

2. The appellant submitted a letter dated 23.02.2018 stating the they did not wish to appear in person and requested the matter to be decided based on the appeal memo.

3. We have heard ld. AR and perused the appeal records.

4. The appellant is not contesting their service tax liability on GTA services to be paid on reverse charge basis. They have in fact paid the full tax liability along with interest for delay in payment. The tax as well as interest has been appropriated in the original order itself. In the present case, they are not contesting the service tax liability with interest. Their only plea is to set aside the penalty imposed on them. It is submitted by them that they were operating as SSI unit and applied for registration with the central excise department only in March, 2012. The said registration was granted to them in September, 2012. Being a SSI unit, they were not fully aware of the service tax liability for inward transport on reverse charge basis. Immediately after, being pointed out by the jurisdictional officers, they took service tax registration and paid the tax for the past services along with interest. On perusal of the facts as pleaded by the appellant, we find that it is a fit case for invoking provisions of Section 80 for waiver of penalties imposed under Section 77 and 78 on the appellant. We are satisfied that there is a reasonable case

for non-payment of service tax in time. Accordingly, by invoking the provisions of Section 80, the penalties imposed on the appellant under Section 77 and 78 are waived. The impugned order is set aside to this extent and the appeal is allowed partly.

[Order pronounced on 16.03.2018]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.