In the Customs, Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi-110066

Appeal No.ST/55472/2014
(Arising out of Order-in-Appeal No.IND/CEX/000/APP/162-163/2014 dated 30.07.2014 passed by The Commissioner (Appeals), Customs ,CST Indore)

Superintendent of Police …Appellant

Vs

CCE Indore …Respondent

Appearance:
Present for the Appellant : None. Written submission
Present for the Respondent : Shri R.K. Manjhi, AR

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

Date of hearing: 19.03.2018
Date of decision: 19.03.2018

Final Order No.51048/2018

Per V. Padmanabhan,

The present appeal is against the Order-in-Appeal No.162-163/2014 dated 25.07.2014. The brief facts of the case are that the appellant is an agency of the M.P. Government. The police department provided policy guard for currency chest of various bank branches, financial institutions and also other Central and State organizations and public enterprises. For providing such security guards, Police Department was collecting certain charges. The department was of the view that such charges recovered are towards providing taxable security services defined under Section 65 (105) (w) of the Finance Act, 1994, read with Section 64 (94). Accordingly, Service Tax was demanded by the original adjudicating authority and the same was upheld vide the impugned order. Being aggrieved, the Police Department has filed the present appeal.

2. When the case was called, none appeared on behalf of the appellant, but the appellant has submitted written submission. Heard Shri R.K. Manjhi, ld DR, who justified the impugned order.

3. After hearing the Revenue as well as perusal of record, it appears that an identical issue has come-up for consideration before this Tribunal in the case of Superindent of Police Vs Commissioner of Central Excise and Service Tax, Jaipur-I, Final Order Nos.55321-55348/2016 dated 25.11.2016, wherein it was observed that:

> *"13. On the basis of the above discussion, we conclude that police department, which is an agency of the State Govt., cannot be considered to be a person engaged in the business of running security services. Consequently, the activity undertaken by the police is not covered by the definition of Security Agency under Section 64 (94)of the Act. We also find that in terms of CBEC circular on this subject, the fees collected by the police department is in the nature of fee prescribed for performing statutory function, which has been deposited into the Govt. Treasury. In the light of the CBEC Circular also, there can be no levy of service tax on such activities carried out by the police department."*

3. By following the aforesaid decision (supra), we find no reason to sustain the impugned order and it is hereby set-aside.

4. In the result the appeal filed by the assessee-Appellant is allowed with consequential relief, if any.

Operative part of the order Pronounced in the court.

(S.K. Mohanty)
Member (Judicial)

(V. Padmanabhan)
Member (Technical)

pcs