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

BENCH-DB

COURT –II

Service Tax Appeal No.ST/50841/2014-ST [DB]

[Arising out of Order-in-Appeal No. 192 (ST)/RPR-I/2013 passed by the Commissioner (Appeals-I), Central Excise and Customs, Raipur]

Shri Adityanand Singh ...Appellant

Vs.

C.C.E., Raipur ... Respondent

Present for the Appellant : Mr.Surabhi Sinha, Advocate
Present for the Respondent: Mr. R.K. Maji, D.R.

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

Date of Hearing/Decision: 23.04.2018

FINAL ORDER NO. 51690/2018

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 13.11.2013 passed by the Commissioner (Appeals), Central Excise, Raipur.

2. Brief facts of the case are that M/s. Shivam Structurals and Rolling Mills Pvt. Ltd., Raipur is a manufacturer of structural steel items, falling under Chapter 72 and 73 of the Central Excise Tariff Act, 1985. The said manufacturer had awarded the contract to the appellant for chattal operations.

For undertaking the said job work, the appellant had deployed the manpower within the factory premises of M/s. Shivam Structurals. The Department interpreted that the appellant should be considered as the manpower recruitment agency and accordingly, should be liable to pay Service Tax under such category of service. Upon adjudication of the matter, the Service Tax demand alongwith interest was confined and penalties were imposed on the appellant.

3. Heard both sides and perused the records.

4. The work order dated 27.02.2007 issued by M/s. Sivam Structural to the appellant, state the scope of work as under:-

> *"We are pleased to award the chattal work (lifting of material from platform in the hot condition and after cooling down placing the same upto the site of the straightening machine and end cutting) of our Mill for a period of tow years from 01.03.2007 as per the terms and conditions mentioned below: The terms and conditions of the work order is as under:*
>
> 1. *You will carry out the Chattal operation work without causing any hardship to the Company and their regular employees.*
> 2. *You will be paid on the basis of sales quantity of our products @ Rs.120/- PMT.*
> 3. *You will submit your bill on monthly basis.*
> 4. *TDS, PF/EPF etc., would be deducted from your bill amount*
> 5. *You will maintain all the records required under the labour law."*

5. On perusal of the above work order, we find that the appellant's scope of work was confined to the job work activity on behalf of Shivam Structural and the appellant did not deploy the manpower to work under the control and supervision of Shivam Enterprise. Thus, the activities undertaken by the appellant should not fall under the taxable category of

manpower recruitment or supply agency service. We find that in respect of the identical work order issued by Shivam Structural in the case of Pankaj Kumar, this Tribunal vide Final order No. 54789/ 2014 dated 04.02.2014 has held that the activities should not fall within the scope or ambit of the taxable service of manpower agency service. Therefore, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

[Dictated and pronounced in the open Court]

(V.PADMANABHAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita