IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

DATE OF HEARING : 31/05/2018.
DATE OF DECISION : 31/05/2018.

Service Tax Appeal No. 51217 of 2015

[Arising out of the Order-in-Original No. 05/Commr/GWL/ST/2014 dated 17/12/2014 passed by The Commissioner, Customs, Excise & Service Tax, Indore.]

M/s Pinnacle Shiksha Pvt. Ltd. Appellant

Versus

CCE & ST, Gwalior Respondent

Appearance

Shri Ravi Kant Mishra, Advocate – for the appellant.

Shri G.R. Singh, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Anil Choudhary, Member (Judicial)**
Hon'ble Shri C.L. Mahar, Member (Technical)

Final Order No. 52159/2018 Dated : 31/05/2018

Per. Anil Choudhary :-

The issue in this appeal by the appellant provider of service under 'commercial coaching and training', that they had deposited a challan for Rs. 2,16,300/- being challan dated 31/03/2009 in State Bank of India, Gwalior Main Branch, deposited by Pinnacle Kota Tutorials.

2. The learned Counsel states that the turnover of Pinnacle Kota Tutorials have been clubbed by the Revenue with the turnover of Pinnacle Shiksha Pvt. Ltd. (appellant) and accordingly levied service tax. The learned Counsel further states that although the two are separate business entities, the clubbing was otherwise bad in law, but for the sake of argument as both the institutions have taxable turnover, they do not want to contest the liability of the service tax as per the impugned order.

3. Their only grievance is that the challan dated 31/03/2009 for Rs. 2,16,300/- have not been given credit although the same was deposited much before the impugned order-in-original dated 17th December 2014 and also prior to the show cause notice in the timeline.

4. The learned Counsel further states that the credit could not be given by the Revenue as the challan had gone missing from the records of the appellant and the same could not be produced. Before this Tribunal, the learned Counsel have produced the certificate from State Bank of India dated 26th May, 2018 which certified that Pinnacle Kota Tutorials, Gwalior having ST No. AHPPG 3039DST001 have deposited this amount of Rs. 2,16,300/- vide challan No. 29396561/1258 on 31/03/2009 in the State Bank of India, Gwalior Main Branch.

5. Heard the parties.

6. Having considered rival contentions, we are satisfied that the appellant’s claim is tenable and accordingly we hold so and allow this appeal by way of remand to the Adjudicating Authority with the direction to consider this challan and if the credit have not been given earlier to give credit for the same and also give the consequential benefit by proportionate reduction in the penalties levied thereon.

7. Accordingly, this appeal is allowed by way of remand.

(Order dictated and pronounced in open court.)

(C.L. Mahar)
Member (Technical)

(Anil Choudhary)
Member (Judicial)

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