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

Date of Hearing/Order: 5.2.2019

No. ST/Misc./51129/2018 and ST/50065/2018-SM

(Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-332-17-18 dated 16.10.2017 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Bhopal)

M/s Som Distilleries (P) Ltd. Appellant

Vs.

CCE, Bhopal Respondent

Appearance

Shri Sandeep Mukherjee, Advovate - for the appellant

Shri P. Juneja, DR - for the respondent

CORAM: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Final Order No. 50179/2019

Per Ms. Archana Wadhwa:

The Misc. application is for restoration of the appeal dismissed earlier vide Order No. 51659/2018 dated 26.4.2018, on account of non-appearance of the appellant.

2. Ld. Advocate explains that the matter has been repeatedly coming up on record and he was present on all the occasions when the appeal could not be taken up. However, the last date of the hearing i.e. 26.4.2018 could not be noted by him and as such appearance could not be caused.

3. Appreciating the above, I recall the said final order of dismissal and restore the appeal to its original number and proceed to decide the same, after hearing both the sides.

4. The appellant, as a recipient of GTA services, is liable to pay service tax on reverse charge basis. The dispute in the present appeal relates to two challans involving service tax of Rs. 3,32,585/-. As the appellant could not produce the said challans, Revenue raised the demands and confirmed the same along with confirmation of interest and imposition of penalty.

5. The appellant's contention is that the said challans belonged to the financial year 2006-2007 and as such being very old could not be traceable. However, they have produced evidence in the shape of bank statement indicating the deposit of the said service tax, which evidence has not been considered by the lower authorities in the proper prospective.

6. Inasmuch as it is the appellant's contention that the said service tax was duly deposited by them in the bank but they are unable to produce the challans on account of the same being very old, I set aside the impugned order and remand the matter to original adjudicating authority for verification of the bank statements produced by the assessee. If the deposits have been

made, the non-production of the challans, by itself would not be a proper ground for denial of the relief to the assessee.

7. In view of above, the appeal is allowed by way of remand. Needless to say that the appellant would be given an opportunity to put forth their case.

8. Misc. application as also appeal gets disposed of in above manner.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

RM