CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH-COURT NO.-4

Service Tax Appeal No. 51990 of 2015

[Arising out of common Order-in-Appeal No 27/ST/Appl-1/2014 dated 23/03/ 2015 passed by Commissioner(Appeals) Service Tax, New Delhi]

First Flight Courier Private Limited **Appellant**
[, amager Accounts, 408 Vishal Bhawan 95,
Nehru Place]

Versus

Commissioner of Service Tax, **Respondent**
[17-B I.A.E.A. House, M G Road, I P
Estate, New Delhi-10002]

Appearance

None for the appellant
Shri G R Singh, DR for the respondent

CORAM: **Hon'ble Smt. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Bijay Kumar, Member (Technical)

Date of hearing/decision: 28.03.2019

Final Order No: 50459/2019

Per Archana Wadhwa

On matter being called nobody appeared, accordingly, we have heard Ld. AR and have gone through the impugned order.

2. The appellant is engaged in providing taxable services under the category of 'Courier services'. The dispute in the present appeal relates to availing of Cenvat Credit of Service Tax amounting to Rs. 3,80,215 during the period 2004-05 to 2005-06.

3. Proceedings were initiated against the appellant by way of issuance of a Show Cause Notice on 18/09/2009 proposing to deny the credit on the sole ground that the invoices, on the basis of which credit stands availed, were having the address of their other units and inasmuch as the appellant was not registered as ISD, the availement of Credit was not justified. Accordingly, notice proposed to deny the same the said notice culminated into an impugned order passed by the Ld. Authority upholding the denial of the credit and also confirming interest and imposing penalties. Hence the present appeal.

4. On going through the impugned order, we note that the Revenue is otherwise not denying the fact that said inputs services availed by the assessee and stand utilised in providing output of services. Further, the credit was taken by reflecting the same in the Cenvat account. It is well settled law that non registration of an assessee as ISD would not result in denial of the credit to the assessee. For the above propotion, reference can be made to Hon'ble Karnatka High Court in the decision **m-Potal India Wireless Pvt. Ltd. reported as [2012 (27) STR 134**. As such, we find no justifying reason for denial of credit to the appellant.

5. Apart from the merits of the case, we also note that the demand stands raised by invoking the longer period of limitation. Admittedly, the appellant had availed the credit by reflecting the same in Cenvat Credit account and due returns were being filed by the appellant. As such invoking longer period of limitation is neither justified nor warranted.

The appeal also succeed on limitation. In view forgoing, we set aside impugned order and allow the appeal with consequential relief to the appellant.

(Dictated and pronounced in open court)

(Bijay Kumar) (Archana Wadhwa)
Member (Technical) Member (Judicial)

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