CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 52411 of 2015 [DB]

[Arising out of Order-in-Original No.JOD-EXCUS-000-COM-0002-14-15 dated 16.02.2015 passed by the Commissioner of Central Excise- Jodhpur, Jaipur]

M/s. Zila Udhyog Kendra, **...Appellant**
Industrial Estate, Jodhpur (Rajasthan)

Vs.

Commissioner of Central Excise **...Respondent**
Jodhpur (Hq at Jaipur), NCR Building,
Statue Circle, Jaipur (Raj.)

APPEARANCE:

Shri O.P. Agarwal, Advocate for the Appellant
Shri Vivek Pandey, Authorised Representative for the Respondent

Coram: HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR.BIJAY KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No. 50492/2019

DATE OF HEARING : 29 March, 2019
DATE OF DECISION: 29 March, 2019

ARCHANA WADHWA:

Demand of service tax to the tune of Rs.65.24 Lacs approximately stands confirmed against the appellant under the category of 'Business Exhibition Services, for the period 01.10.2008 to 30.06.2013, by invoking the longer period of limitation.

2. Without going into the detailed arguments placed by both the sides, we find that the demands were also raised against the same assessee for the subsequent periods starting from July, 2013 onwards. Such demands were confirmed by the lower authorities but on appeal Commissioner (Appeals) set aside the same by observing as under:-

"5. I have gone through the facts of the case, impugned order, grounds of appeal and argument put-forth during the course of personal hearing. I find that in this case the demand of service tax of Rs.16,99,611/- has been issued to Zila Udyog Kendra, Jodhpur on account of providing the business exhibition services during the period from July, 2013 to May 2014. I find that in this case, the Zila Udyog Kendra has constituted an organizer for government in the name of M/s. Paschimi Rajasthan Udyog Hastshilp Utsav, Jodhpur consisting of the following members:-

a. District Collector

b. District Police Superintendent.

c. Three Representatives from local industrial organizations

d. Senior most officers from RFC, RICCO and Khadi Board.

e. General Manager, Zila Udyog Kendra.

The said organizer (a new entity) organized the trade fair & business exhibition and prepared the Balance Sheet of their Income & Expenditure on account of such activity. I further find that the Board vide Circular No.96/7/2007-ST, dated 23.08.2007 F.No.354/28/2007-TRU has clarified that Trade fairs and exhibitions are organized by persons. Such organizers of trade fairs and exhibitions provide services to exhibitors in relation to business exhibition. Services provided by an organizer of trade fairs and exhibitions provided to an exhibitor in relation to business exhibition are liable to service tax under "Business Exhibition Service". Therefore, the services provided by the organizer are liable to service tax but it would be the liability of organizer only. Since, in this case, the organizer in M/s. Paschimi Rajasthan Udyog Hastshilp Utsav, Jodhpur who have also taken registration undedr service tax law subsequently and are paying service tax regularly thereafter and therefore, no demand of service tax on the aforesaid services can be made from Zila Udyog Kendra which is a State Government Department."

3. As per the findings arrived at by Commissioner (Appeals) in the said issue, we note that M/s. Paschimi Rajasthan Udyog Hastshilp Utsav, Jodhpur had subsequently been granted registration by the Revenue and they are paying the service tax on

the activities involved in the present case. In such a scenario, Revenue cannot take a stand that the appellant was provider of said services, having themselves granted registration to M/s. Paschimi Rajasthan Udyog Hastshilp Utsav, Jodhpur. The objection of the ld. AR that the said contention was not raised before the original adjudicating authority cannot be appreciated inasmuch as there is a clear finding of fact by Commissioner (Appeals) and the issue being a legal issue, the appellant can take the same at any point of time.

4. In such a scenario, the findings of the lower authorities cannot be upheld and the impugned orders are set aside and appeal allowed with consequential relief.

[Dictated and pronounced in the open Court]

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

(BIJAY KUMAR)
MEMBER (TECHNICAL)

Anita