CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Bench – SMB
Court – I

Appeal No. ST/30352/2018

(Arising out of Order-in-Appeal No. GUN-EXCUS-000-APP-0166-17-18 dated 31.01.2018 passed by Commissioner of Central Tax & Customs (Appeals), Guntur)

Divisional Electrical Engineer Operation …..Appellant(s)

Vs.

The Commissioner of Central Tax,
Guntur – G S T …..Respondent(s)

Appearance
Ms Siri Reddy, Advocate for the Appellant.
Shri Guna Ranjan, Superintendent (AR) for the Respondent.

Coram:
Hon'ble Mr. P. Venkata Subba Rao, Member (Technical)

Date of hearing: 25/06/2018
Date of decision: 25/06/2018

FINAL ORDER No. A/30642/2018

[Order per: P. Venkata Subba Rao]

This appeal was filed by the appellant against Order-in-Appeal No. GUN-EXCUS-000-APP-0166-17-18 dated 31.01.2018.

2. Learned Counsel for the appellant submits that in identical cases with respect to 45 earlier appeals, the Division Bench of Hyderabad had, vide Final Order No. A/30284-30328/2017 remanded the matters back to the Original Authority to resolve the issue by scrutiny of documentary evidence for ascertainment of claim of appellant that they had not retained the tax collected from its customers. She therefore, prays that this case may also be remanded accordingly.

3. The Learned Departmental Representative agreed that the facts of the case identical to the ones already remanded by the Division Bench to the Original Authorities.

4. I have gone through the records of the case and heard both sides. I find that the issue is involved in identical and the matter was remanded back to the Original Authority vide Final Order No. A/30284-30328/2017 dated 22.02.2018. In that order the Division Bench recorded as follows:

> ***"4.*** *It would, therefore, appear from the rival arguments that the entire issue can be resolved by a scrutiny of documentary evidence for ascertainment of claim of appellant that they had not retained the tax collected from its customers. In these circumstances, the appropriate course of action would be to set aside the impugned orders and remit the dispute back to the original authority who, in accordance with the principles of natural justice, would afford an opportunity to the appellant to submit all relevant evidence each of which shall be scrutinized and decided thereupon. Appellants are at liberty to submit any other documents that may assist in such scrutiny.*
>
> ***5.*** *On the above terms, we dispose off these appeals keeping all issues open for resolution by the original authorities.*

I find no reason to take a different position with respect to this appeal and accordingly, I find the matter should be remand back to the Original Authority for *denovo* adjudication after examining the documentary evidence produced by the assessee and giving them an opportunity of being heard.

5. The appeal is allowed by way of remand to the Original Authority.

(Order pronounced and dictated in open court)

(P. VENKATA SUBBA RAO)
MEMBER(TECHNICAL)

Lakshmi….