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

Appeal No. ST/383/2010
(Arising out of Order-in-Appeal No. 73/2009 (H-II)S.Tax, dated 26.10.2009 passed by CC CE&ST (Appeals-II), Hyderabad

LEPRA SOCIETY ….. Appellant(s)

Vs.

CCE,C&ST, Hyderabad-II …..Respondent(s)

Appearance
Shri B.N. Gururaj, Advocate for the Appellant.

Shri Dass Thavanam , Superintendent /AR for the Respondent.

Coram:

Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 20.08.2018
Date of Decision: 12.09.2018

FINAL ORDER No. A/30731/2018

[Order per: M.V. Ravindran]

1. This appeal is directed against Order-in-Appeal No. 73/2009 (H-II)S.Tax, dated 26.10.2009.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the appellant during the period May 2006 to October 2007 had not discharged the service tax liability on the amounts received as consideration from District TB Control Society, sponsored by Government of Andhra Pradesh for implementation of Revised National Tuberculosis Control Programme which is a World Health Organisation programme in Ranga Reddy District.

4. Ld. Counsel drew our attention to the MOU executed by the appellant with TB Control Society and submits that the entire activity of the appellant is only to implement the programme of Revised National Tuberculosis Control Programme for which they had engaged the services of Sr. Treatment Supervisor and other staff whose main job was to go around various villages to implement the programme and are appointed as only facilitators for various activities. It is his submission that the amount which was received by the appellant from District TB Control Society, was only reimbursement of the expenses incurred by them and cannot be considered as supply of manpower and recruitment agency services under which the Revenue wants to charge the service tax liability. It is his further submission that the appellant being a non governmental organisation and non profit organisation, is only given an amount to meet the expenses towards salary and fuel to the staff engaged by them and they have not charged any amount over and above as service charges. He submits that being a non governmental organisation and non profit organisation working for eradication of Leprosy, Tuberculosis, malaria, HIV/AIDs, the service tax

liability be set aside. He relies upon the decision of Hon'ble High Court of Madras in the case of CST Chennai vs. Sangamitra Services Agency [2014(33) STR 137 (Mad.)] wherein it is clearly settled that reimbursable expenses received by an assessee need not be taxed or added under taxable value.

5. Ld. DR submits that the MOU entered into by the appellant would indicate that appellant is supplier of manpower and the activity undertaken by the appellant is directly under the District TB Society like assigning of areas of work, supervise and monitor the performance of the individuals for implementation of various programmes under Revised National Tuberculosis Control Programme.

6. On careful consideration of the submissions made, we find that the lower authorities are seeking to tax the amount received by the appellant from District TB Society of Ranga Reddy District under the category of "Manpower Recruitment & Supply Agency Service". On scrutiny of the MOU/agreement, we notice that appellant is contracted to provide staff on specific terms which includes and clearly states amounts payable to such staff and the said amount is inclusive of all allowances and the said staff has to be employed or appointed on contract for specific period and the services will be automatically stand terminated. It is seen from the said contract/MOU that the District TB Control Society being empowered to implement the programmes which is mandated to the appellant herein. In

our considered view, though the services rendered by the appellant being the services of a non-governmental organisation with no profit motive, the services would definitely be classified under the category of “Manpower Recruitment and Supply Agency Services”. In our view, the MOU entered by the appellant categorically states so.

7. In view of the foregoing, we hold that the impugned order is correct and legal and does not require any interference. The claim of the appellant that these are reimbursable expenses is also not established from the contract which have been produced in the appeal memorandum.

8. Impugned order is upheld and appeal stands rejected.

(Pronounced in the open Court on 12.09.2018)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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