CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Single Member Bench
Court – II

<u>Appeal No. ST/30923/2018</u>
(Arising out of Order-in-Appeal No. VIZ-EXCUS-002-APP-017-18-19 Dated 26.04.2018 passed by CCE C&ST (Appeals), Visakhapatnam)

K M V Ramana .. Appellant

Vs

CCT, Visakhapatnam GST .. Respondent

Appearance
None for the Appellant.
Shri PS Reddy, Asst.Commissioner /AR for the Respondent.

Coram:
Hon'ble Mr. P.K. Choudhary, MEMBER (JUDICIAL)

Date of Hearing: 01.10.2018
Date of Decision: 01.10.2018

<u>FINAL ORDER No. A/31249/2018</u>

[Order per: Mr. P.K. Choudhary]

1. The facts of the case in brief are that the appellants are registered with Service Tax department and had been filing their service tax returns in ST-3. Show cause notice dated 29.09.2015 was issued alleging delay in filing of ST-3 returns and proposed imposition of late fee in terms of Section 70 of Finance Act, 1994, read with Rule 7 (C) of Service Tax Rules, 1994. The adjudicating authority confirmed the demand of late fee of Rs. 1,01,000/-. On appeal, Ld. Commissioner (Appeals) modified the adjudication order by reducing late fee

from Rs. 1,01,000/- to Rs. 60,000/-. Hence, present appeal before the Tribunal.

2. Heard both sides and perused the records. I find that the appellant is providing services to M/s ONGC and A.P. State Government Departments and there was delay in payment of bills raised which resulted in delay in filing of ST-3 Returns. Since he was unable to pay the service tax owing to the delay in receipt of payments from various customers, this resulted in the delayed filing of ST-3 Returns. I also find that the appellant is a Proprietary concern and the proprietor was suffering with various ailments and due to prolonged ill-health, he was unable to attend to his work on a regular basis, which further delayed the raising of bills and subsequent delay in filing the ST-3 Returns. Appellant has argued that they have not gained any advantage by not filing the returns within the due date and the delay has occurred on account of the circumstances which were beyond his control.

3. In view of the above discussions, the amount of Rs. 60,000/- being the late fee imposed for the delay in filing of ST-3 returns is set aside and the appeal filed by the appellant is allowed with consequential relief, if any.

(Operative portion of the order pronounced in open court on conclusion of hearing)

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

vrg