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

Application No. ST/EH/24092/2014
In
Appeal No. ST/302/2009

(Arising out of Order-in-Original No. 34/2008 -ST dated 26.12.2008 passed by Commissioner of Customs, Central Excise & Service Tax, Hyderabad -II)

Granules (India) Limited .....**Appellant(s)**

Vs.

Commissioner of Customs, Central Excise & Service Tax, Hyderabad -II .....**Respondent(s)**

Appearance
Shri R. Muralidhar, Advocate for the Appellant.
Shri V. R. Pavan Kumar, Superintendent (AR) for the Respondent.

Coram:
Hon'ble Mr. M. V. RAVINDRAN., MEMBER (JUDICIAL)
Hon'ble Mr. P.VENKATA SUBBA RAO, MEMEBER (TECHNICAL)

Date of hearing: 24/10/2018
Date of decision: 24/10/2018

FINAL ORDER No. A/31384/2018

[Order per: M. V. Ravindran.]

This application is filed for out of turn hearing of appeal No. ST/302/2009.

2. After hearing both sides, we find that the issue involved in this appeal may be covered by the various decisions of the Tribunal. Accordingly, we allow the application for out of turn hearing of the appeal and take the appeal for disposal.

3. Heard both sides and perused the records.

4. It is seen from the records that service tax liability under the category on the various services like Business Auxiliary services, Management Consultancy services, Scientific and Technical Consultancy services, Advertising Agency services and Business Exhibition services are demanded from the appellant for the period 16.08.2002 to 31.03.2007 on the ground that the appellant had provided various services required who were situated at abroad and accordingly under reverse charge mechanism their required to discharge the tax liability.

5. We find that for the tax liability under reverse charge mechanism for the period 16.08.2002 to 18.04.2006, demand does not survive as the provisions of Section 66A of the Finance Act, 1994 came into statute w.e.f. 18.04.2006. This law also settled by the Apex Court in the case of *Indian National Shipowners Association* [2010 (17) STR J57 (S.C)] by upholding the decisions of the Hon'ble High Court of Bombay reported at [2009 (13) STR (235)].

6. As regards the service tax liability under reverse charge mechanism for the period post 18.04.2006, we find that the said service tax liability needs to be upheld along with interest. It is on record that the appellant had already discharged the service tax liability along with interest before issuance of show cause notice. Since, the entire service tax liability and interest thereof stands paid prior issuance of show cause notice the impugned order to that extent by upholding the service tax liability and the interest thereof is correct

and does not suffer from any infirmity. As regards the penalty on the amount of tax liability for the period post 18.04.2006, we hold that since the issue was litigated at higher judicial forums, settled by Supreme Court, visiting the appellant with penalty is incorrect as they may have entertained bonafide belief of the non-taxability. Accordingly, invoking Section 80 of the Finance Act, 1994, is it was statute during the relevant period, we set aside the penalty for the tax liability post 18.04.2006.

7. The appeal stands disposed with consequential relief, if any.

(Order dictated and pronounced in open court)

P. VENKATA SUBBA RAO
MEMBER (TECHNICAL)

M. V. RAVINDRAN
MEMBER(JUDICIAL)

Lakshmi….