CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD

Division Bench
Court - I

Appeal No. ST/786/2010

(Arising out of Order-in-Appeal No. 19/2009 (G) ST dated 11.09.2009 passed by CCCE & ST (Appeals), Guntur)

United Power Services ….. Appellant(s)

Vs.

CCCE & ST, Guntur ….. Respondent(s)

Appearance

Shri B.V.S. Chalapathi Rao, 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. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 30.10.2018
Date of Decision: 30.10.2018

FINAL ORDER No. A/31397/2018

[Order per: M.V.Ravindran.]

1. This appeal is directed against Order-in-Appeal No. 19/2009 (G) ST dated 11.09.2009.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue is regarding the taxability of services rendered by the appellant in respect of maintenance and repair services.

4. Show cause notice was issued for the demand of service tax under the category of maintenance and repair services by invoking extended period of limitation. Appellant contested the show cause notice on limitation as well as on merits. The adjudicating authority after due process of law, confirmed the demands raised along with interest and imposed penalties. Appellant

preferred an appeal before the first appellate authority. The first appellate authority after considering the facts of the case set aside the demands raised on the appellant in respect of period beyond limitation but confirmed the demands raised within the limitation and set aside the penalties imposed under section 78, while upholding the penalties under section 76 & 77. Revenue had preferred an appeal against setting aside demand for the period beyond the order of limitation which was dismissed as withdrawn due to the litigation policy.

5. Today learned counsel submits that they are praying only for setting aside penalties imposed under section 76 & 77. We do not find any reason to interfere in the impugned order passed by the first appellate authority. We find that there is no dispute as to the fact that the appellant is liable to pay service tax under the category of maintenance and repair services within the period of limitation. It is also undisputed that the service tax liability was discharged after the same was pointed out by the department. Appellant has not filed any returns during the relevant period. We find that arguments put forth by the learned counsel that they had justifiable reason for not paying service tax is not at all appealing enough to invoke provisions of section 80. In view of the foregoing, we find that the reasoning given by the first appellate authority in confirming the demands raised within the period of limitation along with interest and also upholding penalties imposed under section 76 & 77 is correct and does not require any interference.

6. The appeal stands rejected.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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