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

Application Nos. ST/COD/30744/2016 & ST/EH/30524/2017
in
Appeal No. ST/31197/2016
(Arising out of Order-in-Original No. HYD-EXCUS-002-COM-027-14-15 dt.05.09.2014 passed by CCCE & ST, Hyderabad - II)

Creative Multimedia Services Pvt Ltd ….. Appellant(s)

Vs.

CCCE & ST, Hyderabad - I ….. Respondent(s)

Appearance
Shri S. Nageswara Rao, Advocate for the Appellant.
Shri V.R. Pavan Kumar, Superintendent for the Respondent.

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

Date of Hearing: 16.11.2018
Date of Decision: 16.11.2018

FINAL ORDER No. A/31551/2018

[Order per: M.V. Ravindran]

1. The appellant herein has filed an application for condonation of delay and an application for early hearing in the matter.

2. Heard both sides and perused the records.

3. We find that the application for condonation of delay has correctly pointed out that the delay is unintentional supported by an affidavit and accordingly we condone the delay and allow the application and take the appeal on record. On perusal of records, we find that the issue in this matter can be decided at this juncture itself, accordingly, with the consent of both

sides, we allow the application for out of turn hearing of the appeal and take up the appeal for disposal.

4. Learned counsel appearing for the appellant submits that the issue is regarding the service tax liability on the appellant under "commercial coaching and training services"; appellants are franchisees of APTECH Ltd and engaged in providing multimedia, animation and graphic and visual design training. It is his submission that this show cause notice dated 30.08.2013 is invoking the extended period of limitation which is incorrect as on a similar issue, for the earlier period a show cause notice was already issued by invoking extended period and the demand is unsustainable on the grounds of limitation. On merits, he reiterates the grounds of appeal.

5. Learned departmental representative reiterates the findings of the lower authorities.

6. On perusal of records, we find that the appellant herein did not furnish any reply to the show cause notice issued to them. The show cause notice was dated 30.08.2013 and on 17.07.2014 when the appellants were called for a personal hearing, Managing Director, Manager (Accounts) appeared before the adjudicating authority and admitted that service tax liability as per the show cause notice is payable and they have not paid the same due to severe financial crisis. It was also on record that they had requested the adjudicating authority to pay the dues in monthly instalments of Rs.3-4 lakhs per month.

7. We find that the appellant has no case on merits as the adjudicating authority in the impugned order, in Para 12.1 has categorically recorded that appellant vide letter dated 16.01.2013 has admitted the liability of tax and non-payment for the period from 2010-11 onwards. It is also seen from the

same Para that the appellant had admitted that they had collected the service tax from their clients/ students but did not remit the same into the Government treasury due to paucity of funds. On this factual matrix, when the learned consultant was confronted, he was not able to satisfactorily state or defend the action of the appellant. If that be so, we find that appellant has no case on merits and we find no reason to interfere in the impugned order which in our view is correct and legal and does not require any interference.

8. In view of the foregoing, we hold that the impugned order is upheld and the appeal stands rejected.

(Operative Part of this order was pronounced in the Open Court
On conclusion of hearing)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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