CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - DB
COURT - I

Appeal(s) Involved:

ST/520/2009-DB

(Arising out of Order-in-Appeal No. 04-2009 (PVR) dated 26/02/2009 passed by the Commissioner of Central Excise & Customs Visakhapatnam)

T. HARSHAVARDHAN PRASAD Appellant(s)

Versus

Commissioner of Central Excise, VISAKHAPATNAM-II Respondent(s)

Appearance:

Mr V. RAVINDRANATH, ADV for the Appellant.

Mr GUNA RANJAN A.R. for the Respondent.

CORAM:

HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)
HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 20/02/2019
Date of Decision: 20/02/2019

Final Order No. A/ 30236 / 2019

[Order per: M.V.Ravindran.] .

This appeal is directed against order-in-original No. 04-2009 (PVR) dated 26/02/2009.

2. Heard both sides and perused the records.

3. On perusal of records, it transpires that the issue involved in this case is regarding demand of service tax from the appellant herein. Appellant herein renders services to Coromandal Fertilizers Ltd and M/s Rashtriya Ispat Nigam Ltd. It is the claim of the appellant that they are rendering services of manpower recruitment and supply agency services while the allegation of the department in the show-cause notice is that they are rendering cargo handling services and maintenance and repair services. We find that the period involved in this case is August 2006 to March 2007. After hearing both sides at length on the issue, we find that the work orders issued by coromandal Fertilizers Ltd indicate that the amounts payable by them is towards packing, removal of spillage, loading of the trucks and dump material at a specified place as also loading of wagons. At this stage we are unable to reach a conclusion, as to whether the part of the work undertaken by the appellant would fall under the category of manpower recruitment and supply agency services or part of the work will fall under the cargo handling services. The adjudicating authority has in the impugned order confirmed the entire demand for both the categories i.e cargo handing services and maintenance and repair services without indicating the exact amount payable under specific services. In our view, the entire matter needs reconsideration as it is the claim of the appellant's counsel that the entire amount paid by Coromandal Fertilizers Ltd is not towards cargo handling services or loading of the goods in to the vehicles and wagons In our

view, since it is not clear from the order-in-original, it requires reconsideration by the adjudicating authority. Without expressing any opinion on the merits of the case, keeping all the issues open, we set aside the impugned order and remit the matter back to the adjudicating authority to reconsider the issue afresh after following principles of natural justice.

4. Appeal is disposed of by way of remand.

(Order pronounced and dictated in open court)

P. Venkata Subba Rao
MEMBER (TECHNICAL)

M.V.Ravindran
MEMBER (JUDICIAL)

Neela Reddy