CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 482 of 2009
(Arising out of **Order-in-Appeal** No.18/2009(H-III) ST, dated 15.04.2009 passed by Principal Commissioner of Customs, Excise & Service Tax (Appeals-III), Hyderabad)

Kalva Engineers Private Ltd., .. **APPELLANT**
Plot No. 17,
Mamata Nagar Colony, Nagole,
Hyderabad,
Telangana – 500 068.

VERSUS

Commissioner of Central Excise, .. **RESPONDENT**
Customs & ServiceTax
Hyderabad – III
L.B. Stadium Road,
Basheerbagh, Hyderabad,
Telangana – 500 004.

APPEARANCE:

None for the Appellant.
Shri A V L N Chary, Authorised Representative for the Respondent.

CORAM: **HON'BLE Mr. R.MURALIDHAR, MEMBER (JUDICIAL)**
HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30118/2023

Date of Hearing:29.05.2023
Date of Decision:29.05.2023

[ORDER PER: R.MURALIDHAR]

No one appeared on behalf of the Appellant. It is seen that in the Order-in-Original Commissioner has confirmed demand of Rs. 26,43,386/- under the category of service and service tax of Rs. 14,38,054/- under 'Commercial Training and Coaching Service' along with interest and penalties. On appeal, the Commissioner (Appeals) has held that Service Tax liability should be restricted to actual receipts in the bill amounts. This has to be done by the Adjudicating Authority after verifying all the details. The Commissioner (Appeals) has also waived the penalty imposed under Section 78.

2. The Department has initially contested the waiver of penalty under Section 78 which was later on withdrawn on account of monetary limits.

3. It is seen from the Stay order passed on 01.09.2009 No. 1163/2009 dated 20.08.2009 the Tribunal had noted that the Appellant has deposited

Rs. 7,45,830/- and had directed the Appellant to pay further deposit of Rs. 2,67,000/-. From the records, it is seen that amount of Rs. 2,67,000/- has been deposited by the Appellant which has been noted by the Registry.

4. The Appellant is not appearing before the Tribunal inspite of regular Hearing notices been sent to him. Since the Appeal pertains to the year 2009, the Bench has taken up the Appeal for disposal on merits. Perused the Appeal papers with the help of the Learned AR. After going through the records and hearing the Learned AR, the Bench feels that the matter is required to be remanded to the Adjudicating Authority to grant benefit of re-quantification of Service Tax liability based on the actual receipts by the Appellant.

5. The penalty initially imposed has already been set aside by the Commissioner (Appeals) and is not under contest before the Tribunal. Therefore, the Adjudicating Authority is required to re-quantify the demand and appropriate the amount already paid and arrive at the balance demand, if any.

6. The Appeal disposed off thus.

(Order dictated and pronounced in open court)

(R.MURALIDHAR)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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