CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 1147 of 2012
(Arising out of **Order-in-Original** No.07/2012(RS), dated 31.01.2012 passed by Principal Commissioner of Central Excise, Customs & Service Tax, Visakhapatnam-II)

R.S. Pabbla Constructions Pvt Ltd., .. **APPELLANT**
D.No.15-15-9/7, T.F.-2, Flat No. 402,
Eswar Lakshmi Ramsubbarao Residency,
Buddhavarapu Gardens, Maharanipeta,
Visakhapatnam,
Andhra Pradesh – 530 002.

VERSUS

Commissioner of Central Tax .. **RESPONDENT**
Visakhapatnam
Room No. 201, 2nd Floor,
GST Bhavan,
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035.

APPEARANCE:
Written Submissions for the Appellant.
Shri Wagh Chittaranjan Prakash, Authorised Representative for the Respondent.

CORAM: HON'BLE Mr. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30423/2023

Date of Hearing:05.12.2023
Date of Decision:05.12.2023

[ORDER PER: ANIL CHOUDHARY]

Appellant have prayed for decision on merits, mentioning that under similar dispute, facts and circumstances in their own matter in Appeal No. ST/3085/2011 vide Final Order No. A/30116/2023 dated 29.05.2023, this Tribunal taking notice that the issue involved is quantification of demand and further taking notice that Revenue have not given proper opportunity for hearing, nor considered the evidence produced, the Tribunal was pleased to allow the appeal by way of remand to the Adjudicating Authority for Denovo adjudication.

2. Heard Learned AR for Revenue Shri Wagh Chittaranjan Prakash and perused the records.

3. We find that Show Cause Notice dated 21.10.2010 was issued on the Appellant, who was a registered assessee, demanding service tax for the period 2009-2010. Service tax was demanding for the differential amount of turnover, as per the ST-3 returns and as reflected by their Profit & Loss

Account. Accordingly, Rs. 69,92,514/- was demanded, with proposal to impose penalty under Section 76 of the Act.

4. In the Adjudicating Order dated 31.01.2012, it is observed that inspite of service of Show Cause Notice, the Appellant have not filed any reply nor attended the personal hearing. Accordingly, vide ex-parte Order the proposed demand was confirmed with interest and further penalty was imposed under Section 76 of the Act.

5. Following the Precedent Order in Appellant's own case mentioned herein above, where in this Tribunal have appreciated that Appellant was not given proper opportunity to contest the Show Cause Notice, we allow this appeal by way of remand to the Original Adjudicating Authority. The Appellant is directed to file the reply to Show Cause Notice within a period of 60 days upon receipt of the copy of this Order. Adjudicating Authority shall hear the Appellant and after perusing the reply to Show Cause before him, pass a reasoned Order in accordance with the law. We hope and trust the Adjudicating Authority shall complete the adjudication proceedings within the period of 4 months from the date of first day hearing in the matter. The Appellant is also directed to appear with a copy of this Order along with the reply to Show Cause Notice before the Adjudicating Authority, and seek opportunity for hearing.

6. Appeal allowed by way of remand.

(Operative part of this Order was pronounced
in court on conclusion of the hearing)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

jaya