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

Single Member Bench

Court – I

Service Tax Appeal No. 30118 of 2024

(Arising out of Order-in-Appeal No.HYD-SVTAX-RR-AP2-478-2023-24 dt.20.11.2023 passed by Commissioner of Customs & Central Tax (Appeals-II), Hyderabad)

Neerudu Srinivas Reddy .... **Appellant**
H.No.3-48/1, Aruvani (Village),
Narketpally (Mandal), Nalgonda,
Telangana – 508 254

VERSUS

Commissioner of Central Tax .... **Respondent**
Rangareddy - GST
GST Bhavan, Hyderabad,
Telangana – 500 081

Appearance
Shri Brahmandabheri Prasad, Advocate for the Appellant.
Shri V. Srikanth Rao, AR for the Respondent.

Coram:
HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER NO. A/30304/2024

Date of Hearing: 31.05.2024
Date of Decision: 31.05.2024

[Order per: A.K. JYOTISHI]

The Appellant – M/s Neerudu Srinivas Reddy is in Appeal against the OIA dt.20.11.2023, whereby the Commissioner (Appeals) had upheld the OIO dt.24.01.2023 passed by the Original Adjudicating Authority.

2. The issue, in brief, is that based on the financial information from the Income Tax Department for the year 2015-16, the Department felt that the Appellants have not discharged the Service Tax liability on the said value of taxable services as per ITR/26AS. Since, despite repeated requests to the Appellant, no information was forthcoming, the Department issued a SCN No.V/15/164/2020-SCN (ST)/590 dt.01.12.2020 to the Appellant demanding Service Tax of Rs.7,22,042/- along with interest and penalty.

3. On subsequent adjudication of the SCN, the Original Adjudicating Authority issued notice for Personal Hearing, however, it appears from the record that the Appellants did not appear for the PH and thereafter, the OIO was passed ex parte. The Appellants, thereafter, appealed against the said OIO to the Commissioner (Appeals), who rejected their Appeal and upheld the OIO.

4. Learned Counsel for the Appellant, at the very outset, contests that the Appellants had neither received any letters purported to have been sent to them for seeking information nor they had received the SCN. They also contest that they had never received the communication for PH. According to the Learned Counsel, they became aware of this issue only when they received the OIO against which they had filed Appeal before the Commissioner (Appeals). Therefore, without getting into merit of the case, their first ground is that since they never got an opportunity to defend the case the Appeal is liable to be allowed on that ground itself. On merit, he stated that there was no supply of services rather it was supply of goods as they were engaged in the business of supply of construction material, etc., and therefore, there could not be any Service Tax liability on them.

5. On the other hand, learned AR has produced an e-mail from the Department, according to which both SCN and Personal Hearing Memo were sent to the Appellant to their address through speed post and also in respect of Personal Hearing Memo there are tracking details, according to which, the said intimation was delivered on 16.12.2022.

6. I have gone through the copy of the Personal Hearing Memo in which there was also reference to the SCN dt.01.12.2020, however, in the absence of purported non-receipt of this letter by the Appellants as well as the original SCN, according to them, they have not been able to defend their case.

7. I find that this case is based on third party information and no detailed investigation or enquiry was conducted before issuing the SCN, the receipt of which by the Appellant is also in dispute. In the larger interest of natural justice, the case needs to be re-heard by the Original Adjudicating Authority giving opportunity to the Appellant to defend their case effectively and explain the nature of income in respect of which the Department is alleging

levy of Service Tax. No observation is being made on the merit of the case and the Adjudicating Authority will be free to decide it on merit based on the information and evidence furnished by the Appellants.

8. Accordingly, the Order of the Commissioner (Appeals) is set aside and the case is remanded back to the Original Adjudicating Authority.

9. Appeal allowed by way of remand.

(Dictated and pronounced in the open Court)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

Veda