IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

S.T.Appeal No.76122/17

Arising out of Order-in-Appeal No.44/ST-I/KOL/2017 dated 27.02.2017 passed by Commr. (Appeals) of Central Excise, Kolkata

M/s Ravi Enterprises

...APPELLANT(S)

VERSUS

Commr. of Service Tax I, Kolkata

RESPONDENT (S)

APPEARANCE

Shri Abhisek Jalan, Adv. for the Appellant (s)
Shri S. S. Chattopadhyay, Supdt. (A.R.) for the Revenue

CORAM:

SHRI P. K. CHOUDHARY, HON'BLE JUDICIAL MEMBER

DATE OF HEARING /PRONOUNCEMENT : 08.03. 2018

ORDER NO.F/O/75832/2018

Per Shri P. K. Choudhary :

This is an appeal filed by the Appellant against Order-in-Appeal No.44/ST-I/KOL/2017 dated 27.02.2017 passed by Commr. (Appeals) of Central Excise, Kolkata.

2. Briefly stated the facts of the case are that the appellant is holding Service Tax Registration with the Service Tax department. A Show Cause Notice dated 31.07.2012 was issued alleging that the appellant had not paid the Service Tax during the period from April 2011 to September 2011 on transport of goods by road service stated to have been used for export of goods. The Adjudicating authority

confirmed the demand of Service Tax of Rs. 10,020/- along with interest and imposed penalty of equal amount of Service Tax.

3. By the impugned Order the Commissioner (Appeals) upheld the Adjudication Order. Hence, the appellant filed this appeal.

4. Heard both sides and perused the appeal records.

5. On perusal of the impugned Order I find that the Commissioner (Appeals) observed that the appellant had failed to establish that the instant services have been used by them for export of goods. The appellant contended that the appellant as Exporter informed the jurisdictional Deputy Commissioner of Central Excise (Service Tax) in form EXPT which was received on 13.04.2011 before availing the exemption of taxable services under Notification No. 18/2009-ST dated 07.07.2009. The Tribunal in the case of Corromondal Stamp and Stones Limited Vs. CCE & ST, Hyderabad 2016 (4) STR 221 (Tri-Hyderabad) observed that substantive benefit not deniable on technical ground. In the present case, it is seen that the appellant had informed the department and submitted the Form EXPT. Hence, the impugned Order cannot be sustained accordingly, it is set aside. The appeal filed by the appellant is allowed.

(Operative part of the Order was pronounced in Court)

Sd/

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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