IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
EASTERN ZONAL BENCH: KOLKATA

S.T.Appeal Nos.40/09 & 189 to 195/09

(Arising out of Orders-in-Appeal Nos.75-82/Bol/2008 dated 03.12.2008 passed by the Commissioner of Central Excise (Appeals0, Kolkata)

M/s Indian Ex-Military Security Force
Applicant (s)/Appellant (s)

Vs.

CCEx, Kol.IV
Respondent (s)

Appearance:

Shri S. P. Mukherjee, Advocate for the Appellants(s)
Shri H.S.Abedin, Asstt.Commr. (AR) for the Revenue

CORAM:

HON'BLE SHRI P.K.CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE SHRI V. PADMANABHAN, MEMBER (TECHNICAL)

Date of Hearing : 31.10.2018
Date of Decision : 31.10.2018

ORDER NO…FO/A/76946-76948/2018

Per Bench :

The present set of appeals are filed against the orders of the lower authorities, in which, the service tax amounts have been held as payable by the appellant for the provision of security services.

2. Heard Shri S.P.Mukherjee, ld.Advocate for the appellant as well as Shri H. S. Abedin, ld.D.R. for the Revenue.

3. It is submitted by the ld.Advocate on behalf of the appellant that the status of the appellant was that the appellant had a partnership firm with Shri Basudev Ganguly, as a proprietor. However, Shri

Basudev Ganguly expired on 26.03.2010. He submits a copy of the Death Certificate dated 29.03.2010 issued by Berhampore Municipality.

4. The ld.Advocate for the appellants also submitted that the entire service tax due demanded by the Revenue by issuing various orders against whom the present set of appeals have been filed, have already been paid by the appellants. In this connection, he submitted copies of all the challans. He also submitted that since the proprietor has already passed away, the present appeals may be abated in terms of Rule 22 of CESTAT Procedure Rules, 1982. In this connection, he also relied on the decision of the Hon'ble Supreme Court in the case of Shabina Abraham & Others Vs. Collector of Central Excise & Customs in Civil Appeal No.5802 of 2005.

5. The ld.D.R. for the Revenue agreed with the submission of the ld.Advocate for the appellants that in terms of Rule 22 of CESTAT Procedure Rules, 1982, the present appeals would stand abated.

6. Heard both sides and perused the records.

7. We find that the demand for service tax was made against a proprietorship firm. Since the Proprietor of the said firm, Basudev Ganguly, has expired on 26.03.2010, the present appeals abate in terms of Rule 22 of CESTAT Procedure Rules, 1982. This view is fortified by the Hon'ble Supreme Court's decision in the case of Shabina Abraham & Others (supra).

8. In the result, all the appeals are abated.

(Dictated and pronounced in the open court)

Sd/	Sd/
(P.K.Choudhary)	**(V.Padmanabhan)**
Member (Judicial)	**Member (Technical)**

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