IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

S.Tax Appeal No.76172 of 2018

(Arising out of Order-in-Appeal No.40/ST-II/Kol/2017 dated 27.10.2017 passed by Commr. (Appeals) of CGST & Excise, Kolkata)

M/s J.G.Engineers Pvt. Ltd.
176B, Rash Behari Avenue, Kolkata-700029

Applicant

VERSUS

CGST & Excise, Kolkata South
180, Shantipally, Rajdanga Main Road, Kolkata 700107

Respondent

APPERANCE :
None for the Appellant
Shri S.S.Chattopadhyay, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. P.K.CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO…76971/2019

DATE OF HEARING : 20.12.2019
DATE OF DECISION : 20.12.2019

PER P.K.CHOUDHARY :

When the matter was called, none appeared on behalf of the appellant. On perusal of the record, I find that the issue lies in a narrow compass. Accordingly, in the absence of the appellant and with the consent of the Ld.D.R. for the Revenue, the appeal is taken up for final hearing.

2. Heard the Ld.D.R. for the Revenue and perused the appeal records.

3. On perusal of the show-cause notice dated 13.04.2011, it is observed that the amount of 8,21,337/- was shown in Column 4 (c) of the ST-3 Return [in 'details of service tax payable but not paid as on the last day of the period for which the return is filed']. Subsequently, the entire amount of service tax was paid by the appellant assesee on

various dates and interest liability has also been discharged by the appellant. They are only praying for setting aside the penalty imposed under Section 76 of the Finance Act, 1994. I find that when the appellant assesee has not deposited the liability of service tax and has in fact, pointed out for showing the same in ST-3 Return, there was no occasion for issuance of show-cause notice. The entire amount of service tax of Rs.8,21,337/- as demanded in the Order-in-Original dated 05.03.2012, has been paid along with appropriate interest by the appellant. It is also the case of the appellant that 80% of the service tax for the impugned period was paid before issuance of the show-cause notice. By invoking Section 80 of the Finance Act, 1994, penalty under Section 76 is set aside. The appeal filed by the appellant is allowed.

(Dictated and pronounced in the open court.)

Sd/
(P. K. Choudhary)
Member (Judicial)

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