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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.79701 of 2018

(Arising out of Order-in-Original No.52/COMMR/ST-II/KOL/2017-18 dated 26.03.2018 passed by Commissioner of CGST & CX, Kolkata South Commissionerate.)

M/s. Deepsun Industrial Corporation
(47, Harish Chatterjee Street, Kolkata-700026.)

...Appellant

VERSUS

Commissioner of CGST & CX, Kolkata South Commissionerate
.....Respondent
(GST Bhavan, 180, Shanti Pally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

Shri Basabraj Chakraborty, Advocate for the Appellant (s)
Shri A.Roy, Authorized Representative for the Respondent (s)

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

FINAL ORDER NO. 75174/2021

DATE OF HEARING : 26 March 2021
DATE OF DECISION : 26 March 2021

P.K.CHOUDHARY :

Heard both sides through video conferencing and perused the appeal records.

2. The learned Advocate appearing on behalf of the Appellant submits that they are not contesting on the demand of Service Tax of Rs.1,91,317/-. In fact, he submits that against the total demand of Rs.1,91,317/-, the appellant assessee has already paid a sum of Rs.4,40,372/- during the period from 2012-13 to 2015-16. All the payments have been detailed in Annexure-D and photocopies of all the challans are attached and are part of the appeal Paper book. In fact they have also filed an application before the Tax Recovery

Officer/Assistant Commissioner, Rashbehari Division, Kolkata South Commissionerate stating that the demand of Rs.1,91,317/- be adjusted from the amount already paid i.e. Rs.4,40,372/- and the remaining amount may be refunded to them. They have filed copies of the communication from time to time with the jurisdictional authorities on this issue.

3. Since the adjudicating authority has not appropriated this amount in the adjudication order, I consider it appropriate to remand the matter to the adjudicating authority for verification of the payments as made by the appellant assessee and adjustment of the Service Tax demand against the appellants, so made. However, the actual status would be ascertained only after verification of the payments made. Accordingly, the appeal is allowed by way of remand to the adjudicating authority.

(Dictated and pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

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