

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

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 75797 of 2018

Arising out of Order-in-Appeal No.355/HWH/ST/2017-18 Dated 30.11.2017 passed by
Commissioner of CGST & Central Excise (Appeals-II), Kolkata.

M/s. SBM Udyog

(New Kazidanga, Bandel Hooghly-712123)

Appellant (s)

VERSUS

Commr. of CGST & CX, Howrah Commissionerate

(M. S. Building, Customs House, 15/1, Strand Road, Kolkata-700001)

Respondent (s)

APPEARANCE :

None for the Appellant

Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO.75341/2023

Date of Hearing : 8 May 2023

Date of Decision : 8 May 2023

PER R. MURALIDHAR

On going through the Appeal papers, it is observed that the Appellant has not enclosed copy of the OIO because of which the Tribunal is not in a position to make out as to how the Adjudicating Authority has confirmed the demands and what evidences were placed by the Appellant before him and whether they were considered or not considered by the Adjudicating Authority.

2. Perused the Appeal Papers with the help of Learned AR. It is seen from their Grounds of Appeal and their letter submitted today that they are claiming that in many cases they did not receive the full payment from their clients because of which they treated only the part received amount as liable for Service Tax and paid the Service Tax. They also claimed that in some cases, they have not charged any Service Tax on their clients. In such cases, they are seeking cum-tax benefit in terms of Section 67 (2) of the Finance Act, 1994.

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3. Since all this exercise to arrive at the quantum of Service Tax cannot be taken up by the Tribunal at this stage, I feel that the matter requires to be remanded to the Adjudicating Authority.
4. The Appellant is directed to submit all their documentary evidence before the Adjudicating Authority who will follow the principle of natural justice and pass a considered order within 4 months from the date of communication of this order.
5. The Appeal is disposed of thus.

(Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja