

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

REGIONAL BENCH – COURT NO.2

**Service Tax Appeal No. 77072 of 2018**

(Arising out of Order-in-Appeal No.241/S.Tax-I/Kol/2018 Dated 16.03.2018 passed by  
Commissioner of CGST, Howrah Commissionerate)

**M/s. Anglo Properties & Traders Pvt. Ltd**

(1/A, Vanisittart Row, Kolkata-700001)

**Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Howrah  
Commissionerate**

(M. S. Building, 2<sup>nd</sup> Floor, 15/1, Strand Road, Kolkata-700001)

**Respondent**

**APPEARANCE :**

Mr. Rudra Neil Mallick, CA for the Appellant

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

**CORAM:**

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

**FINAL ORDER NO.75804/2023**

Date of Hearing : 20 June 2023

Date of Decision : 20 June 2023

**PER R. MURALIDHAR**

The Appellant has filed the present Appeal being aggrieved by the impugned OIA wherein, the Service Tax demand of Rs.3,12,503/- was confirmed.

2. The Learned Chartered Accountant submits that the property in question was leased out to the lessees by the Appellant plus another three co-owners. As per the terms of the Agreement, the entire consideration was received by the Appellant and the same was shared on proportionate basis with the other three co-owners. The Appellant has completed the Service Tax payment for the rent received by them for their portion. The Service Tax demand was raised on the entire consideration received by the Appellant. During the proceedings initiated, the Appellant has shown the details of the Service Tax paid by two of the other co-owners. Accordingly, the initial demand of Rs.7,08,158/- was dropped to Rs.3,12,503/- at the Adjudication Level.

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Most of this Service Tax amount is payable by the 4<sup>th</sup> co-owner Mr Aditya Bikram Chamaria. The Learned Chartered Accountant submits that a re-conciliation statement showing that the Appellant has already paid Rs.48,540/- on account of 'Renting of Car Parking Space'. He also points out that Mr. Aditya Bikram Chamaria (the 4<sup>th</sup> co-owner) has paid Rs.1,95,953/- which is clarified by the Chartered Account's Certificate wherein all the relevant payment challans have been enclosed. Apart from this, he also points out that at the time of adjudication, the Adjudicating Authority has failed to consider the payment of Rs.52,716/- on account of Challan dated 10<sup>th</sup> March 2010. If these three payments are considered the balance Service Tax payable would be to the extent of Rs.15,294/- only. They are agreeable to pay the same along with interest.

3. The Learned AR submits that factual details given by the Chartered Accountant seems to be correct. He points out that in case of Service Tax of Rs.48,540/- towards Car Parking was paid by them without interest thereon. He submits that the claim of various payments done by the Chartered Accountant is required to be verified.

4. Heard both sides and perused the documents.

5. It is seen from the OIO that at the initial stage itself, the Adjudicating Authority has accepted that since there are three other co-owners, the entire liability of Service Tax is not required to be discharged by the Appellant alone. He has considered the Service Tax paid by the other two co-owners and brought down the demand. Therefore, considering the fact that now the 4<sup>th</sup> co-owner has come up with details of Service Tax paid by him and the Chartered Accountant has pointed out about two more payments to be considered, I deem it fit to remand the matter to the Adjudicating Authority to go through all these facts.

6. The Appellant will produce all the documents in support of their submissions before the Adjudicating Authority who will follow the principle of natural justice and pass a considered order.

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7. Since the matter pertains to the year 2008, the Adjudicating Authority is directed to complete the Denovo Adjudicating proceedings within three months from the date of communication of this order.

(Dictated and pronounced in the open court.)

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pooja