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

REGIONAL BENCH - COURT NO.1

Service Tax Appeal No.259 of 2011

(Arising out of Order-in-Original No.27/COMMR./BOL/11 dated 31.03.2011 passed by Commissioner of Central Excise, Bolpur.)

Central Industrial Security Force
(MTPS (DVC), P.O.: Mejia, Dist: Bankura, Pin-722183, West Bengal.)
...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bolpur
.....Respondent
(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

APPEARANCE

Shri Harsh Gadodia, Chartered Accountant for the Appellant (s)
Shri K.Chowdhury, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 76085/2023

DATE OF HEARING : 12 July 2023
DATE OF DECISION : 12 July 2023

Per : ASHOK JINDAL :

The appellant is in appeal against the impugned order for imposing penalty under section 76 of the Finance Act, 1994.

2. The facts of the case are that during the course of scrutiny of records of the appellant, it was found that appellant has not paid service tax on 'security service' for the period April 2009 to March 2010 in time. Thereafter, the proceedings were initiated to demand interest and penalty under section 76 of the Finance Act, 1994 and to impose late fee on the appellant. The matter was adjudicated and demand of interest was confirmed, penalty under section 76 of the Finance Act was also confirmed. Late fee was also confirmed. The appellant by way of

this appeal is disputing the imposition of penalty on the appellant being a central government organization as there was discussion going on with the Ministry of Home Affairs whether the appellants have to get registered themselves for providing 'security service' or not, therefore, they could not take registration and after advice given by the Ministry of Home Affairs, they got themselves registered and paid the service tax. Therefore, giving the benefit of section 80 of the Finance Act, 1994, the appellant is seeking dropping of penalty against them.

3. Heard the ld.Counsel for the appellant.

4. Considering the fact that appellant being a central government organization under Ministry of Home Affairs, we give benefit of Section 80 of the Finance Act, 1994 and by giving the said benefit, we hold that penalty under section 76 of the Finance Act, 1994 is not sustainable against the appellant.

Therefore, the penalty imposed by the impugned order, is set aside and the appeal is allowed.

(Operative part of the order was pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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