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

REGIONAL BENCH – COURT NO.1

<u>Service Tax Appeal No.350 of 2012</u>
(On behalf of Appellant)

(Arising out of Order-in-Original No.06/Commr./ST/Kol/2012-13 dated 24.04.2012 passed by Commissioner of Service Tax, Kolkata)

M/s APL (India) Private Limited
7, KYD Street, 1st Floor, Kolkata-700016

Appellant

VERSUS

Commissioner of Service Tax, Kolkata
180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

<u>APPERANCE :</u>

Shri Prasad Paranjape, Advocate for the Appellant
Shri K.Chowdhury, Authorised Representative for the Revenue

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

FINAL ORDER NO...76631/2023

<u>DATE OF HEARING : 11.09.2023</u>
<u>DATE OF DECISION : 11.09.2023</u>

<u>Per Ashok Jindal :</u>

The appellant is in appeal against the impugned order wherein demand of service tax has been confirmed against the appellant for the following charges collected from shippers :

(a) Bunker Surcharge

(b) Currency Adjustment Factor

(c) Advance Manifest Charges.

2. The facts of the case are that the appellant is a steamer agent for a shipping line viz. APL Company Pte. Limited, Singapore and undertakes various activities on behalf of the principal Shipping Line

based out of Singapore. The agency commission which the appellant receives from the shipping line, is offered to service tax and accordingly, the appellant is paying the service tax, that is not in dispute.

2.1 The present dispute with regard to three charges, namely, (i) Bunker surcharge, (ii) Currency adjustment factor and (iii) Advance manifest charges, collected by the appellant from the importers/exporters and remitted at actual charges to the shipping line.

2.2 The Revenue is of the view that the levy of service tax on these charges are to be considered as charges for accounting and processing of transactions for infrastructural support to the customers on behalf of the Shipping Line. Hence, they are liable to pay service tax under the category of support services or business or commerce during the period from 2006-07 to 2009-10.

2.3 The matter was adjudicated. The demand of service tax was confirmed against the appellant.

2.4 Aggrieved from the said order, the appellant is before us.

3. The ld.Counsel for the appellant submits that the issue has been decided by this Tribunal in their own case as reported in 2015 (37) STR 301 (Tri.-Mumbai). Therefore, the appellant is not liable to pay service tax on the above said charges and the impugned order is to be set aside.

4. The ld.A.R. for the Revenue reiterated the findings of the impugned order.

5. Heard the parties and considered the submissions.

6. We find that in the appellant's own case on identical facts (supra), this Tribunal has observed as under :

> "***4.2*** *The short question for consideration is whether the ocean freight, currency adjustment charges, bunkering charges, advance manifest charges collected by the appellant on behalf of the shipping lines can be subjected to levy of Service Tax. It is undisputed that most of these charges form part of the transaction value in respect of customs matters and therefore, the question of levy of Service Tax on a customs transaction would not arise at all. If the appellants have collected these charges and remitted the same to the shipping lines, the whole amount received and transmitted cannot be said to be a consideration for the services rendered……………..*"

7. As the issue has already been decided by this Tribunal in the appellant's own case (supra), we hold that the appellant is not liable to pay service tax on three charges, namely, (i) Bunker surcharge, (ii) Currency adjustment factor and (iii) Advance manifest charges as alleged in the show-cause notice.

8. Therefore, we set aside the impugned order and allow the appeal with consequential relief, if any.

(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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