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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 264 of 2012
(Arising out of Order-in-Appeal No. 127/ST/Kol/2012 dated: 24.04.2012 passed by Commissioner of Central Excise Appeal-I, Kolkata.)

M/s. Allahabad Bank
(2, Netaji Subhas Road, Kolkata-700 001.)

...Appellant

VERSUS

Commr. of Service Tax, Kolkata
(180, Shantipally, Kolkata-700 107)

...Respondent

<u>APPERANCE :</u>
Mr.None for the Appellant
Mr. Krishnendu Chaudhary, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN MEMBER (TECHNICAL)

FINAL ORDER No. 77596/2023

DATE OF HEARING : 01.12.2023
DATE OF DECISION : 01.12.2023

<u>PER: BENCH :</u>

The Department has issued show-cause-notice demanding Service Tax of Rs.9,08,522/- on RCM basis for the services received from abroad. In the course of investigation the Appellant was paid Rs.6,89,994/- along with interest of Rs.1,52,779/-. The adjudicating authority has confirmed the entire demand and has appropriated the Service Tax and interest paid by the Appellant. Being aggrieved, the Appellant has filed their Appeal before Commissioner (Appeals). The Commissioner (Appeals), after going through the factual details and cited case law, has reduced the confirmed demand to Rs.7,68,318/-. Being aggrieved the Appellant is before the Tribunal.

2. After going through the Appeal papers and the impugned Order-in-Original and Order-in-Appeal, we find that the Commissioner (Appeals) has gone through the factual details and also has relied on the case law of UOI vs. Indian National Shipowners Association 2010 (17) S.T.R. J57 (SC), wherein, the Hon'ble Supreme Court has held that the Service Tax

on RCM basis is payable only from 18.04.2006. Therefore, the Commissioner (Appeals), has arrived at a considered decision. We do not see any reasons to interfere with the same.

2. We find that the Appellant is required to pay the balance amount of Rs.7,08,344/- along with interest.

3. However, considering the fact that the issue is that of interpretation which was finally resolved by the High Court and Supreme Court, the penalties are set aside.

4. The Appeal is disposed of thus.

(Dictated and pronounced in the open court)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(K. Anpazhakan)
Member (Technical)

Pinaki