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

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 536 of 2012

(Arising out of Order-in-Original No.49/Commissioner/ST/Haldia/Adjn/2012 dated 11.09.2012 passed by Commissioner of Central Excise, Haldia Commissionerate)

M/s. Central Industrial Security Force.
(IOC Haldia Refinery & IOC, HBC Pipeline,
Post-Haldia Refinery, Dist.-Purba, Medinipur, Pin-721606)

Appellant

VERSUS

Commr. of Central Excise & Service Tax, Haldia
(25, Princep Street (3rd Floor), Kolkata-700072)

R**espondent**

APPEARANCE :
Mr. Nilotpal Chowdhury, Advocate for the Appellant
Mr. S. Mukhopadhyay, Authorized Representative for the Respondent

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

FINAL ORDER NO.77622/2023

Date of Hearing : 24 November 2023
Date of Decision: 24 November 2023

PER R. MURALIDHAR:

The Appellant provides security services to various reputed Public Sector Undertakings. For the services provided by them to IOCL, Haldia Refinery Campus etc, they were not charging any Service Tax for the services provided. Show Cause Notice was issued on the ground that no Service Tax was paid by them for the period May 2006 to September 2009. The Appellant produced copy of the CBEC Circular under F. No. 137/14/2008-CX-4 dated 01/07/2011 wherein, the services provided by the Appellant has been exempted from payment of Service Tax during the period 16/10/1998 to 31/03/2009. Accordingly, against the initial demand of Rs.2,63,33, 834/-, the demand in respect of the period till 31/03/2009 was dropped. The balance confirmed Service Tax demand of Rs.

38,14,534/- was vide Challan No. 001 dated 18/01/2012 which was appropriated in the OIO. However, the Adjudicating Authority confirmed the interest of Rs.49,14,946/- on this amount. Being aggrieved, the Appellant has filed the present Appeal before the Tribunal.

2. The Learned Counsel submits that after coming to know that the Service Tax of Rs.38,14,534/- is required to be paid, the Appellant has approached their client IOCL to make this payment. Due to the delayed payment of this amount by IOCL, there was a delay in paying the Service Tax of Rs. 38,14,534/-. They have enclosed the documents to the effect that IOCL has made the payment of Rs. 38,14,534 on 16/01/2012 and immediately on 18/01/2012, the same has been remitted to the Department by the Appellant. Therefore, he submits that the interest confirmed in the impugned Order may be set aside.

3. He further submits that in respect of another amount of Rs. 11,00,412/- the same was paid immediately on receipt of this amount from their clients. There was no delay in the remittance. Accordingly, He prays that the impugned Order to the extent of confirming the interest payment may be set aside.

4. The Learned AR reiterates the findings of the lower Authority.

5. Heard both sides and perused the documents.

6. From the documentary evidence made available before us, it is seen that the Appellant has made the payment of Rs. 11,00,412/- on 09/12/2009 i.e. even before issue of the Show Cause Notice on 25/5/2011. They have made the payment of Rs. 38,14,534/- immediately after receiving this payment from their clients IOCL. Admittedly, there is no dispute that they have not initially charged the Service Tax on their client. They had to wait for disbursement of this amount by the client in order to make the Service Tax payment. It is on record that as soon as they received this payment from their clients, they have immediately remitted the same.

7. Considering these factual details and also considering the fact that CISF works under the Ministry of Home Affairs and the specified Circular issued towards exemption of Service Tax for CISF, we consider it as a fit case to set aside the interest confirmed in the impugned order.

Accordingly, we do so and allow the Appeal.

8. The Appellant would be eligible for consequential relief, if any, as per law.

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

Sd/-

(R. Muralidhar)
Member (Judicial)

Sd/-

(K. Anpazhakan)
Member (Technical)

Pooja