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

REGIONAL BENCH - COURT NO.1

Service Tax Appeal No.75297 of 2016

(Arising out of Order-in-Appeal No.38/ST-I/KOL/2015 dated 24.11.2015 passed by Commissioner of Central Excise (Appeal-I), Kolkata.)

M/s. Blue Star Limited
(7, Hare Street, Kolkata-700001.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Kolkata-I
.....Respondent
(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

Shri Rip Das, C.A. for the Appellant (s)
Shri J.Chattopadhyay, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 77633/2023

DATE OF HEARING : 5 December 2023
DATE OF DECISION : 5 December 2023

Per : ASHOK JINDAL :

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellants have raised and realized bills from different customers for providing taxable service like annual maintenance charge, charges for risk protection, maintenance and repair etc.. The allegation is that the appellant has not paid service tax amounting to Rs.7,81,909/-, which has been collected. Accordingly, a show cause notice was issued and the proceedings were initiated which converted into the impugned demands.

3. During the course of argument, the Ld.Consultant appearing on behalf of the appellant submits that during the course of audit, it was pointed out to the appellant that an amount of Rs.7,81,909/- was not

paid. On the basis of the self-assessment done by the appellant on 25.11.2004, the appellant detected their own mistake that they have short paid the amount of service tax and the same was paid along with interest. Thereafter, the show cause notice has been issued to the appellant by invoking the extended period of limitation.

4. We find that the fact that the appellant has paid the amount of service tax along with interest and on the basis of the same, the adjudicating authority dropped the demand against the appellant but confirmed the demand of Rs.10,784/-, which was also paid by the appellant.

5. In that circumstances, as the facts of the case are not in dispute, the demand confirmed against the appellant by way of impugned order is not sustainable.

6. In these terms, 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/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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