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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.77835 of 2018

(Arising out of Order-in-Appeal No.184/S.Tax-II/Kol/2018 dated 26.03.2018 passed by Commissioner (Appeals) of CGST & Excise, Kolkata)

M/s Zodiac Express Private Limited
166B, S.P.Mukherjee Road, 3B, Merlin Links,Kalighat, Kolkata-700026

Appellant

VERSUS

Commissioner of CGST & Excise, Kolkata South
180,Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

APPERANCE :

Shri P.K.Mukherjee & Shri Ashikur Rahaman Halder, both Authorised Representive for the Appellant
Shri P.K.Ghosh & Shri B.K.Singh, both Authorized Representative for the Respondent

CORAM:

HON'BLE MR.RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO.75054/2024

DATE OF HEARING : 18 .01.2024
DATE OF DECISION : 18 .01.2024

Per Rajeev Tandon :

Heard both the parties.

2. The appellant is a provider of courier service, business auxiliary service and renting of immovable property service.

3. The short question in the present appeal concerns with the short payment of service tax on the un-billed revenue on account of various services rendered by the appellant. It is the contention that on account of certain services provided on credit basis for which invoicing were done by the service receiver at a later date and therefore, tax on

unbilled revenue is paid upon the receipt of the invoices in terms of Rule 3 of the point of Taxation Rules, 2011.

4. The provisions of Rule 3 of the point of Taxation Rules, 2011 reads as under :

"For the purpose of these Rules, unless otherwise provided, "point of taxation" shall :

(a) The time when the invoice for the service provided or to be provided is issued.
Provided that where the invoice is not issued within the time period specified in Rule 4A of the Service Tax Rules, 1994, the point of taxation shall be the date of completion of provision of the service.

(b) In case, where the person providing the service, receives a payment before the time specified in clauses (a), the time, when he receives such payment, toe the extent of such payment."

5. The ld.A.R. for the Revenue draws my attention to the following findings of the adjudicating authority :

"If they paid the service tax after raising the bills as claimed by the appellant, they should have all documents with them. I find that the date of scrutiny was 19.06.2014 i.e. after one year of the billing date , but they failed to produce the same till such time. I also find that in the reply of show-cause notice and at the time of the personal hearing , the appellant agree to submit reconciliation statement of those unbilled along with payment details within seven days, but they unable to do so."

6. In view of the above observations, I am in agreement with the Revenue that the necessary reconciliation statement for the unbilled revenue with regard to payment of details, had to be made by the

appellant in time before the original authority, but they failed to do so. Now, they have presented the said statement and explained that the said statement could not be filed in time before the lower authorities on account of circumstances, which were beyond their control.

7. In these circumstances and in the interest of justice, the matter is required to be remanded to the original authority for necessary verification of the re-conciliation statement now produced. The appellants are directed to produce such statement before the original authority.

8. The original authority is directed to decide this matter within 4 months from the date of receipt of the order as the said issue pertains to the year 2012-2013.

9. Appeal stands disposed off by way of remand to the original authority.

(Dictated and pronounced in the open court)

(Rajeev Tandon)
Member (Technical)

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