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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.77492 of 2019
(On behalf of Appellant)

(Arising out of Order-in-Appeal No.19/Bol-ST/2019-2020 dated 22.04.2019 passed by Commissioner (Appeals) of CGST & Excise, Siliguri)

M/s Shree Krishna Traders
(Santiban Park, Sanjib Sarani, Durgapur-713201)

Appellant

VERSUS

Commissioner of CGST & Excise, Bolpur
(Nanoor Chandidas Road, SIAN, Bolpur, Dist.-Birbhum, West Bengal)

Respondent

APPERANCE :

Shri D.Basuthakur, Advocate for the Appellant
Shri J.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO…75106/2024

DATE OF HEARING : 31.01.2024
DATE OF DECISION : 31.01.2024

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the demand of service tax under" Works Contract Service" has been confirmed on the basis of 26-AS Forms obtained from the Income Tax Department for the period from 2009-10 to 2013-14 by way of show-cause notice dated 26.09.2014.

2. The ld.Counsel for the appellant submits that they were filing ST-3 Returns in time and the demand has been confirmed on the basis of 26-AS Forms and there is a difference between the ST-3 Returns as they were filing regularly ST-3 Returns. In that circumstances, the

extended period of limitation is not invocable in the facts and circumstances of the case.

3. On the other hand, the ld.A.R. for the Revenue supported the impugned order.

4. Heard both the parties and considered the submissions.

5. I find that most of the period is barred by limitation and there is no allegation of suppression of facts by the appellants as 26-AS Forms and ST-3 Returns were available with the Department itself.

6. In that circumstances, the extended period of limitation is not invocable in the facts and circumstances of the case.

7. In view of the above, I hold that the extended period of limitation is not invocable, consequently, the demand of service tax for the extended period is set aside. For the demand confirmed pertaining to the period within limitation, I remit back the matter to the adjudicating authority to consider the issue on merit and decide the issue after giving an opportunity being heard to the appellant.

8. In the result, the appeal is disposed off.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

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