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

REGIONAL BENCH - COURT NO.1

Service Tax Appeal No.75470 of 2015

(Arising out of Order-in-Original No.BSR-EXCUS-002-COM-023-14-15 dated 20.02.2015 passed by Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-II.)

Shri Dilip Kumar Chatterjee
(At/PO: Boneikela, Joda, Keonjhar, Odisha-758038.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bhubaneswar-II
.....Respondent
(C.R. Building, Rajaswa Vihar, Bhubaneswar-751007, Odisha.)

APPEARANCE

Shri Sanjay Dixit, Advocate for the Appellant (s)
Shri S.S.Chattopadhyay, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 75140/2024

DATE OF HEARING : 5 February 2024
DATE OF DECISION : 5 February 2024

Per : ASHOK JINDAL :

The appellant is in appeal against the impugned order wherein a demand has been confirmed against them under 'Mining Services'.

2. The facts of the case are that the appellant had entered with contract with M/s. Pattanaik Minerals Private Limited and as per the terms of the contract, the appellant has to transport broken lump from the Mines pit head to Banspani Iron Limited by engaging their dumpers as to be directed from time to time. The Revenue is of the view that the said service falls under the category of 'Mining Services' as the same has been done within the mining area. Therefore, the proceedings were

initiated against the appellant by issuance of the show cause notice and in adjudication proceedings, the demand of Service Tax was confirmed framing the issue i.e. transportation of iron ore from pit head to Banspani Iron Limited during the relevant period would amount to 'Mining Services' or not, the adjudicating authority confirmed the demand of Service Tax holding that the appellant is providing 'Mining Service'. Against the said order, the appellant is before us.

3. The Ld.Counsel for the appellant submits that the issue has been settled by the Hon'ble Apex Court in the case of Commissioner of Central Excise & Service Tax, Raipur Vs. Singh Transporters [2017 (4) G.S.T.L. 3 (S.C.) (07-07-2017)], wherein it has been held that transportation within the mining area is called as 'Transport Agency Services' and not covered under 'Mining Services'.

4. As the issue is no more *res integra*, we hold that the activity undertaken by the appellant does not amount to 'Mining Services'. Accordingly, no Service Tax is payable by the appellant under 'Mining Services'.

5. In this view of the mater, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated and pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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