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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.75993 of 2015
(On behalf of Revenue)

(Arising out of Order-in-Original No.08/ST/Denovo/Ayukta/2015 dated 29.06.2015 passed by Commissioner of Central Excise & Service Tax, Patna)

Commissioner of Central Excise & Service Tax, Patna
C.R.Building (Annexe), Birchand Patel Path, Patna-800001

Appellant

VERSUS

M/s Bharat Sanchar Nigam Limited
GMTD, Darbhanga, Bihar

Respondent

APPERANCE :

Shri S.S.Chattopadhyay, Authorized Representative for the Appellant
Shri A.K.Shahi, Advocate for the Respondent

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

FINAL ORDER NO.75147/2024

DATE OF HEARING : 24.01.2024
DATE OF DECISION : 24.01.2024

Per Ashok Jindal :

Revenue is in appeal against the impugned order.

2. The facts of the case are that the respondent is the telephone operator and is providing telephone services. For the priod 01.11.2000 to 30.09.2002, a show-cause notice was issued to the appellant for short payment/non-payment of service tax. Later on, a corrigendum was issued demanding the service tax amounting to Rs.1,03,56,186/-.

2.1 The respondent contested the matter with the adjudicating authority and submitted that they have made the payment to the

Department of Telecommunication during the impugned period and in turn, the Department of Telecommunication sent the said payment to the respondent and also provided details of payment, which was within time. After verification of the same, the adjudicating authority found that out of total service tax liability of Rs.2,24,79,652/-, the respondent has deposited an amount of Rs.2,24,53,000/- within time. There is some demand of Rs.26,652/-, which has been confirmed by the adjudicating authority and the same was required to be paid by the respondent along with interest and equal amount of penalty was also imposed. Against the said order, the Revenue is in appeal before us.

3. The ld.A.R. for the Revenue submits that the adjudicating authority has fell in error holding that only a demand of Rs.26,652/- is to be confirmed against the respondent. In fact, out of the total demand of Rs.2,24,79,652/-, the respondent has deposited an amount of Rs.2,24,53,000, which is to be appropriated.

4. On the other hand, the ld.Counsel for the respondent submits that the respondent made the payment in time before due date. Therefore, the said demand cannot be confirmed and appropriated. He, therefore, supports the impugned order and prayed that the Revenue's appeal is to be dismissed.

5. Heard the parties and perused the records.

6. We find that during the impugned period, the respondent was paying service tax liability in time and the same has been recorded in the impugned order and verified. The only an amount of Rs.26,652/- was found short, which was confirmed by the adjudicating authority.

7. In that circumstances, we do not find any infirmity in the impugned order and the same is affirmed.

8. In the result, the Revenue's appeal is dismissed.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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