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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75593 of 2014

(Arising out of Order-in-Appeal No. 35/GHY/CE(A)/GHY/2014 dated 17.02.2014 passed by the Commissioner (Appeals), Customs & Central Excise, Customs House, Nilamoni Phukan Path, Christian Basti, Guwahati – 781 005)

M/s. Pradip Advertising & Co. **: Appellant**
Brindaban Path, Rup Nagar,
Guwahati – 781 032 (Assam)

VERSUS

Commissioner of Central Excise and Service Tax **: Respondent**
Guwahati Sethi Trust Building (4th Floor),
G.S. Road, Bhangagarh,
Guwahati – 781 005 (Assam)

APPEARANCE:

Shri Devaraj Sahu, Advocate for the Appellant

Shri J. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 75170 / 2024

DATE OF HEARING / DECISION: 07.02.2024

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order demanding Service Tax under the category of 'advertising agency service' for the period from 01st April 2006 to 31st March, 2010 by issuing a Show Cause Notice on 03rd December, 2010.

2. The facts of the case are that the appellant is engaged in the activity of printing and advertising agency services. The appellant has taken registration with the Department with regard to provision of

service under the category of 'advertising agency service' and paid Service Tax thereon and has also filed their S.T.-3 Returns. On their activity of printing, the appellant is discharging VAT and showing the same in their books of accounts, but no Service Tax is paid by the appellant for the said activity.

3. The Revenue is of the view that the appellant is required to pay Service Tax on their activity of printing under the category of 'advertising agency service' and therefore, the Show Cause Notice was issued to the appellant for the period from 01st April, 2006 to 31st March, 2010 on 31st December, 2010.

4. The matter was adjudicated and the demand of Service Tax was confirmed along with interest; penalty was also imposed. Aggrieved by the said order, the appellant is before us.

5. The Ld. Counsel for the appellant submits that the appellant is engaged in two types of activities: (a) printing activity and (b) advertising agency service. For the service of providing advertising, the appellant is discharging their Service Tax liability and filing their S.T.-3 Returns; for the activity of printing, they are paying VAT, which is evident from their books of accounts and therefore, they are not liable to pay Service Tax.

6. On the other hand, the Ld. Authorized Representative for the respondent supported the impugned order.

7. Heard the parties and considered their submissions.

8. In this case, the facts which are not in dispute are that the appellant is engaged in two types of activities, namely: -

(a) printing activity; and

(b) advertising agency service

8.1 The appellant has discharged their Service Tax on advertising agency service, which is not in dispute and filed their regular S.T.-3 Returns. Further, on the activity of printing, the appellant has discharged the VAT thereon. As the appellant as discharged VAT on their printing activity, therefore, the appellant is not liable to pay Service Tax on the said activity unless and until the same is proved to be an activity of 'advertising agency service'.

8.2 Therefore, we hold that on the activity of printing, the appellant has discharged VAT and is not liable to pay Service Tax.

9. In these facts and circumstances, we hold that the impugned proceedings were not required to be initiated against the appellant and accordingly, the same are set aside.

10. In the result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sdd