IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 76006 of 2014

(Arising out of Order-in-Original No.04/Commissioner/CE/Haldia/Adjn/2014 dated 30.01.2014 passed by Commissioner of Central Excise & Service Tax, Haldia)

Commissioner of Central Excise and Service Tax, Haldia Commissionerate **: Appellant**
(15/1, Customs House, M.S.Building, Kolkata-700001.)

VERSUS

M/s. MA Enterprise, **: Respondent**
(Chandipur, Rakhejungle, Kharagpur-721302.)

APPEARANCE:

Shri S.Mukhopadhyay, Authorized Representative for the Revenue.

Shri J.K.Mittal, Advocate for the Respondent

CORAM:

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

FINAL ORDER NO. 75569/ 2024

DATE OF HEARING :20.03.2024

Order : [Per Ashok Jindal]

The Revenue is in appeal against the impugned order wherein demand of Service Tax in respect of 'Goods Transport Agency Service' has been dropped by the Adjudicating Authority.

The facts of the case are that the respondent was engaged in transportation of goods by road and also engaged in handling of material, both loading and unloading under 'CNF Agency Services'. While providing CNF services to their client namely M/s. Naresh Kumar and Company Ltd., the appellant is providing 'Goods Transport Agency Service' to their client. Revenue is of the view that the appellant is liable to pay Service Tax for the service provided by the appellant. Therefore, the proceedings were initiated against the appellant for recovery of Service Tax under the category of 'Goods Transport Agency Service' for the period of 2007-08 to 2011-12. The adjudicating authority dropped the demand against the respondent. Against the said order, Revenue is before us.

The Ld. Authorized Representative submits that as the respondent has rendered 'Goods Transport Agency Services' to their client M/s. Naresh Kumar and Company therefore, they are liable to pay Service Tax on their activity.

2. Heard both sides and considered the submissions.

3. We find that in this case the sole allegation is that the appellant is providing 'Goods Transport Agency Service' to M/s. Naresh Kumar and Company and not paying Service Tax. Infact, as per Rule 2(1) (D) (5) of the Service Tax, Rules 1994 in case of GTA Service, the service recipient is liable to pay Service Tax. As the respondent is the provider of 'Goods Transportation Agency Service' in that circumstances recipient M/s. Naresh Kumar & Company is liable to pay Service Tax, and not the appellant and it is the duty of the Revenue to ascertain the fact that whether Naresh Kumar & Company discharged the Service Tax liability or not which is not part of the proceedings before us.

4. In that circumstances, the adjudicating authority has rightly dropped the demand against the appellant under the category of 'Goods Transport Agency Service' as service provider. Therefore, we do not find any infirmity with the impugned order, the same is upheld and the appeal filed by the Revenue is dismissed.

(Dictated and pronounced in the open court)

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

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

RG