**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**EASTERN ZONAL BENCH : KOLKATA**
REGIONAL BENCH – COURT NO. 1
**Service Tax Appeal No. 76180 of 2014**

(Arising out of Order-in-Appeal No.694/Pat/S.Tax/Appeal/2014 dated 12.05.2014 passed by Commissioner(Appeals) of Customs, Central Excise & Service Tax, Patna)

**M/s. NK Enterprises** **: Appellant**
(Prop. Sri Nawal Kishor Mandal),
At-Jangal Gopali,
P.O.-Lakshmipur Babhaniya,
Via-Ekchari, Dist-Bhagalpur-813204.

**VERSUS**

**Commissioner (Appeals) of Central Excise and Service Tax,** **: Respondent**
Patna, Central Revenue Building,
Birchand Patel Path, Patna-800 001.

**APPEARANCE:**

Shri N.K.Chowdhury, Advocate for the Appellant

Shri J.Chattopadhyay, Authorized Representaive for the Respondent

**CORAM:**

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

**FINAL ORDER NO. 75571/ 2024**

DATE OF HEARING :20.03.2024

**Order : [Per Shri Ashok Jindal]**

The appellant is in appeal against the impugned order wherein demand of Service Tax has been confirmed against them by denying the benefit of Notification No.6/2005-ST dated 01.03.2005. Wherein it has been prescribed that if the value of taxable service is less than 10 lakhs in a Financial Year the assessee is not liable to pay the Service Tax.

The facts of the case are that the appellant was a land outsee of Kahalgaon district of Bihar which land was acquired for installation of Kahalgaon Thermal Power Station of NTPC and for that reason appellant was awarded with small contacts of service amongst others. The Revenue is of the view that the said activity of the appellant falls under the category of Security Agency Services. Therefore, the proceedings were initiated against the appellant for the period September, 2004 to December, 2007 to demand Service Tax under the category of Security Agency Services.

2. The matter was adjudicated, the demand of Service Tax was confirmed. Against the said order the appellant is before us.

3. The Ld. Counsel for the appellant submits that the total value of taxable services provided by the appellant during the impugned period works out to Rs. 15,52,077/- as per the annexure to the show cause notice. Their turnover in all the Financial Year is below the threshold limit. Therefore, the appellant are not liable to pay Service Tax in terms of Notification No.6/2005-ST dated 01.03.2005.

On the other hand Ld. Authorized Representative retriated the findings of the impugned order.

Heard the parties consider submission.

We find that in the order in original the adjudicating authority has taken the figures from TDS certificate and details thereof are herein below:

which is as under:

| Sl.no. | Contract No. | TDS Certificate No.(FORM-16) | Amount paid | Date |
|---|---|---|---|---|
| 1 | CS:5090 | 30 | 84681 | 27/04/2004 |
| 2 | 1005:2066 | 296 | 74400 | 13/08/2004 |
| 3 | 1005:2066 | 365 | 74400 | 16/09/2004 |
| 4 | 1005:2066 | 440 | 72000 | 13/10/2004 |
| 5 | 1005:2066 | 787 | 74400 | 04/12/2004 |
| 6 | 1005:2281 | 315 | 78864 | 11/09/2005 |
| 7 | 1005:2281 | 397 | 78864 | 9/9/2005 |
| 8 | 1005:2281 | 405 | 76320 | 5/10/2005 |
| 9 | 1005:2281 | 554 | 78864 | 16/11/2005 |
| 10 | CS:5467(A-6) | 856 | 89054 | 30/3/2006 |
| 11 | CS:5467(A-6) | 40 | 196155 | 18/4/2006 |
| 12 | CS:5467(A-6) | 124 | 46950 | 01/05/2006 |
| 13 | CS:5467(A-6) | 420 | 185448 | 27/09/2006 |
| 14 | CS:5467(A-6) | 685 | 247859 | 20/1/2007 |
| 15 | CS:5467(A-6) | 348 | 138006 | 12/9/2007 |
| 16 | CS:5910/2115 | 410 | 88977 | 25/10/2007 |
| 17 | CS:5910/2115 | 561 | 95442 | 1/12/2007 |
| 18 | CS:5910/2115 | 0008727 | 98392 | 13/12/2007 |
| 19 | CS:5910/2115 | 0042187 | 94397 | 12/01/2008 |
| | | TOTAL | 1973473 | |

On going through the said details and further details provided by the appellant for the impugned period, the details are as under:-

| | Rail/road side | | |
|---|---|---|---|
| 1. | 2. | 3. | 4. |
| 2004-05 | Rs.2,95,200/- | Rs.84,681/= | Rs.3,79,881/= |
| 2005-06 | Rs.3,12,912/- | Rs.89,054/= | Rs.4,01,966/= |
| 2006-07 | Nil | Rs.6,76,412/= | Rs.6,76,412/= |
| 2007-08 | Rs.3,77,208/- | Rs.1,38,006/= | Rs.5,15,214/= |
| G.Total: | Rs.9,85,320/- | Rs.9,88,153/- | Rs.19,73,473/= |

4. On going through the said details, we find that in all the years for which the demand is raised against the appellants falls within the threshold exemption limit of Rs 10 Lakhs as appellants is entitled for the benefit of the exemption notification no. 6/2005-STdated 01.03.2005.

We hold that no Service Tax is payable by the appellant. Accordingly the impugned order demanding Service Tax from the appellant is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

| Sd/- | Sd/- |
|---|---|
| **(K. ANPAZHAKAN)** | **(ASHOK JINDAL)** |
| MEMBER (TECHNICAL) | MEMBER (JUDICIAL) |

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