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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75541 of 2014

(Arising out of Order-in-Original No. COMMR/B-I/ST-07/2013 dated 31.01.2014 passed by the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I Commissionerate, C.R. Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Orissa Industrial Infrastructure Development Corporation **: Appellant**
IDCO Towers, Janpath, Bhubaneswar – 751 022,
District: Khurda

VERSUS

Commissioner of Central Excise, Customs and Service Tax **: Respondent**
Bhubaneswar-I Commissionerate,
C.R. Building, Rajaswa Vihar, Bhubaneswar – 751 007

APPEARANCE:

Shri B.S. Tripathy, Advocate
Assisted by Shri Amaresh Mishra, Advocate
For the Appellant

Shri Ashwini Kr. Chowdhury, Authorized Representative
For the Respondent

CORAM:

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

FINAL ORDER NO. 76607 / 2024

DATE OF HEARING / DECISION: 07.08.2024

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the demand of Service Tax on various services rendered by the appellant has been confirmed, for the period from February 2009 to September 2011.

2. Today, when the matter was called for hearing, the Ld. Counsel appearing on behalf of the appellant submits that a Show Cause Notice bearing C. No. IV(4)89/S.Tax-Adjn./B-I/10/28,707-A dt. 22.10.2010 had already been issued to the appellant and the same was adjudicated by this Tribunal vide order bearing *Final Order No. 77342-77345 of 2023 dated 17.10.2023 in Service Tax Appeal No. 92 of 2009 & ors.* and, for the same period, the impugned proceedings were initiated against the appellant by invoking the extended period of limitation, by issuing the present Show Cause Notice on 01.03.2012. Therefore, in the light of the decision of the Hon'ble Apex Court in the case of *M/s. Nizam Sugar Factory v. Collector of Central Excise, A.P. [2006 (197) E.L.T. 465 (S.C.)],* it is contended that the impugned proceedings are not sustainable against the appellant.

3. The Ld. Authorized Representative appearing for the Revenue drew our attention to the impugned order wherein the ld. adjudicating authority has held that there was no overlapping period for the impugned demand raised against the appellant.

4. Heard the parties.

5. Considering the fact that for the period impugned herein, a Show Cause Notice had already been issued to the appellant in the year 2010 proposing demand of Service Tax on various activities undertaken by the appellant, therefore, we hold that the impugned Show Cause Notice issued by invoking the extended period of limitation is not sustainable in view of the decision of the Hon'ble Apex Court in the case of *M/s. Nizam Sugar Factory (supra)*.

6. In view of this, we set aside the impugned order and allow the appeal filed by the appellant.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd