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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 76548 of 2014

(Arising out of Order-in-Appeal No.54/DIB/CE(A)/GHY/14 dated 21.08.2014 passed by the Commissioner of Customs and Central Excise (Appeals), 5th Floor, Custom House, Nilamoni Phukan Path, Christian Basti, Guwahati – 781 005)

Shri Gopal Sharma **: Appellant**
Opp. Digboi Commercial Institue,
Josoda Road, P.O.: Digboi – 786 171

VERSUS

Commissioner of Central Excise and Service Tax **: Respondent**
Dibrugarh Commissionerate,
Dibrugarh

APPEARANCE:

None for the Appellant

Shri Debapriya Sue, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 76609 / 2024

DATE OF HEARING / DECISION: 07.08.2024

ORDER: [PER SHRI ASHOK JINDAL]

Despite notice, none appeared on behalf of the appellant.

1.2. A communication has been received from the appellant stating that the financial condition of the appellant is very poor and he has no means to join the proceedings before this court; therefore, the appellant has prayed that the issue be decided on the merits of the case.

2. We have gone through the impugned Order-in-Original dated 21.09.2012 and the details of the demand which have been annotated at page number 3 of the said order read as under: -

Period	Taxable amount received	Rate of S. Tax	S. Tax payable	Education Cess payable	SHEC payable
2006-07	1,68,971.17	12%, 2%	20,277.00	406.00	
02.04.2007 to 12.04.2007	1,08,863.94	12%, 2%	13,064.00	261.00	
28.05.2007 to 31.03.2007	3,01,729.46	12%, 2%	36,208.00	724.00	
01.04.2008 to 06.02.2009	3,27,604.66	12%, 2%, 1%	39,313.00	786.00	393.00
24.03.2009 to 31.03.2009	26,125.29	10%, 2%, 1%	2613.00	52.00	26.00
2009-10	7,03,074.18	10%, 2%, 1%	70,307.00	1,406.00	703.00
2010-11	3,74,321.10	10%, 2%, 1%	7,432.00	749.00	374.00
2011-12	1,90,688.11	10%, 2%, 1%	19,069.00	381.00	191.00
GRAND TOTAL	22,01,377.91		2,38,283.00	4,765.00	2,049.00
		Total Service Tax paid	20,902.00	418.00	50.00
		Total S Tax short paid/not paid	2,17,381.00	4,347.00	1,999.00

2.1. On going through the taxable amount received for providing the output services, we find that the same is within the threshold limit in terms of Notification No. 06/2005-S.T. dated 01.03.2005 (as amended by Notification No. 04/2007-S.T. dated 01.03.2007 and Notification No. 08/2008-S.T. dated 01.03.2008) for the respective periods. Thus, no Service Tax was payable by the appellant, but, very strangely, proceedings continued against the appellant, which forced the appellant to file this appeal before the Tribunal. As the amount received for the services rendered by the appellant falls within the threshold limit as observed hereinabove, therefore, we hold that no Service Tax is payable by the appellant. Accordingly, no penalty is imposable on the appellant.

3. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd