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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 330 of 2012

(Arising out of Order-in-Appeal No.23/Commissioner/CE/Haldia/Adjn/2012 dated 29.03.2012 passed by the Commissioner of Central Excise Haldia Commissionerate 25, Princep Street (3rd Floor), Kolkata-700072)

M/s. Zenith Erectors Pvt. Ltd. **: Appellant**
P-12, Haldia Industrial Estate,
Haldia-721602

VERSUS

Commissioner of Central Excise, Haldia Commissionerate, **: Respondent**
Haldia Commissionerate 25, Princep Street
(3rd Floor), Kolkata-700072

APPEARANCE:

Shri N. K. Chowdhury, Advocate for the Appellant

Shri S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.77181/2024

DATE OF HEARING / DECISION: 23.09.2024

Order: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order and is disputing the confirmation of demands against them.

2. The facts of the case are that the appellant is engaged in providing different services classifiable under 'maintenance and repair service', 'erection, commissioning and installation service', 'commercial or industrial construction service', 'works contract service' and 'transportation of goods by road (GTA)

service'. On the basis of information gathered, it was found that although the appellant was registered with the Service Tax Department under maintenance and repair service', 'erection, commissioning and installation service', 'commercial or industrial construction service', 'works contract service' and 'transportation of goods by road (GTA) service, they were not discharging Service Tax liability in the appropriate manner in respect of the said services. Therefore, an investigation was conducted and on the basis of the said investigation, a Show Cause Notice was issued to the appellant, inter alia, seeking to demand Service Tax of Rs.3,26,84,180/- and to deny CENVAT Credit amounting to Rs.42,99,335/-.

3. The matter was adjudicated and after adjudication, the ld. adjudicating authority reduced the Service Tax demand to Rs.2,50,82,385/- and also dropped Rs.69,81,111/- vide the impugned order; rest of the demand was confirmed.

3.1. Against the said order, the appellant is before us.

4. The Ld. Counsel appearing on behalf of the appellant submits that during the impugned period, the appellant has paid appropriate Service Tax on their activities, but after investigation, the documents were not supplied to the appellant and the benefit of Notification No. 15/2004-S.T. dated 10.09.2004 as amended vide Notification No.01/2006-S.T. dated 01.03.2006 was denied and thus the impugned demand came to be confirmed against the appellant. It is contended that the appellant would be able to provide all the details of the Service Tax paid by them as per the work orders and the value of supplies is required to be reduced

from the value of taxable services. Hence, the appellant submits that if the same is considered, then no demand is sustainable against the appellant.

5. On the other hand, the Ld. Authorised Representative of the Revenue drew our attention to the impugned order and submitted that the ld. adjudicating authority has dealt with the issue at length and after considering all the defences taken by the appellant, passed the impugned order.

6. Heard the parties and considered their submissions.

7. We find that the grievance of the appellant is that all the documents were not supplied to them by the Department. Therefore, we direct the ld. adjudicating authority to supply all the relevant documents pertaining to the issue involved in this matter and thereafter, to reconcile the payments made by the appellant and to find out as to whether the appellant is eligible for the exemption notifications, as claimed by the appellant, on the basis of the said documents involved in the matter. Thereafter, the ld. adjudicating authority shall pass an appropriate order in accordance with law.

8. In these circumstances, we set aside the impugned order and remand the matter back to the adjudicating authority for de novo adjudication, keeping all issues open.

9. In these terms, the appeal is disposed of by way of remand

(Operative part of the order was pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

rkp