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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 70978 of 2013

(Arising out of Order-in-Original No. 33/Commr./ST/GHY/2012-13 dated 26.03.2013 passed by the Commissioner of Central Excise and Service Tax, Guwahati, Sethi Trust Building, G.S. Road, Bhangagarh, Guwahati – 781 005)

M/s. Arkashish Entrade Private Limited : Appellant
118/1, City Square, G.S. Road, Bhangagarh,
Guwahati – 781 005 (Assam)

VERSUS

Commissioner of Central Excise and Service Tax : Respondent
Guwahati, Sethi Trust Building, G.S. Road, Bhangagarh,
Guwahati – 781 005 (Assam)

APPEARANCE:

Shri Devaraj Sahu, Advocate 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. 77655 / 2024

DATE OF HEARING / DECISION: 13.11.2024

ORDER: [PER SHRI ASHOK JINDAL]

By this appeal, the appellant is seeking immunity from imposition of various penalties under the Finance Act, 1994, which have been levied on the appellant vide the impugned order.

2. The facts of the case are that the appellant was engaged in the activities of "sale of space or time for advertisement" and "renting of immovable property service" during the period from April 2008 to March 2012.

2.1. An investigation was conducted by the Revenue, during the course of which the appellant paid the entire amount of Service Tax payable by them, along with interest and therefore sought immunity from imposition of penalty by claiming the benefit of Section 80 of the Finance Act, 1994.

2.2. During adjudication proceedings, the ld. adjudicating authority vide the impugned order has confirmed the demands of Service Tax against the appellant, along with interest, and imposed penalties of Rs.1,08,985/- under Section 78 of the Finance Act, 1994 and Rs.10,000/- under Section 77 of the Act.

3. Today, when the matter was called for hearing, the Ld. Counsel appearing on behalf of the appellant submits that the entire amount of Service Tax, along with interest, has already been paid by them and therefore, he sought waiver of the penalties imposed by extending the benefit of Section 80 of the Finance Act, 1994.

4. On the other hand, the Ld. Authorized Representative of the Revenue supported the impugned order and justified the penalties imposed on the appellant.

5. Heard the parties and considered their submissions.

6. We find that it is a case involving rendering 'renting of immovable property service', under which category the major portion of the demand has been confirmed against the appellant. However, we observe that during the impugned period, the issue as to whether the appellant would be liable to pay Service Tax on 'renting of immovable property service' or not was in dispute. In these circumstances, by granting

the benefit of Section 80 of the Finance Act, 1994, we refrain from imposing penalties on the appellant.

6.1. Accordingly, the penalties imposed on the appellant under the various provisions of the Finance Act, 1994 are set aside.

7. In the result, the appeal is allowed *qua* imposition of penalties on the appellant.

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

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Sdd