IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Service Tax Appeal No. 75304 of 2016

(Arising out of Order-in-Appeal No.13/BOK/2015 dated 01.12.2015 passed by Commissioner of Central Excise and Service Tax, Ranchi)

M/s. Abhinash Construction **: Appellant**
Q.No. 1512, Section 12/A, Bokaro Steel City,
Bokaro-827 012.

VERSUS

Commissioner of Central Excise & Service Tax, Ranchi **: Respondent**
6th Floor, Mahabir Tower, Main Road, Ranchi-834001.

APPEARANCE:

Mr. Amit Kumar, Advocate for the Appellant

Mr. P.Das, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 77373/ 2025

DATE OF HEARING :02.09.2025

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order wherein excess payment of Service Tax during the period of 2008-09 was not allowed to be adjusted in the year 2011-12.

2. The facts of the case are that the appellant was engaged in the activity of Cargo handling Services, Works Contract Services and Maintenance & Repairs Services. During the period 2008-09 the appellant wrongly paid the Service Tax of Repair Maintenance of road to the tune of Rs. 7,61,234 and the same amount appellant sought to be adjusted against the demand against the appellant for the period October, 2011 to March, 2012. The same was denied to the appellant on the ground that as per

Rule 6(4) of the Service Tax Rules, 1994, Rule 6(4), the appellant can adjust the excess payment in the succeeding month or quarter but not later on. Therefore, the appellant is in appeal before me.

3. The admitted fact of the case is that the appellant paid the Service Tax of Rs. 7, 61,234/- during the period 2008-09 which was not payable by the appellant for repairs and maintenance of roads and same is sought to be adjusted for the demands October, 2011 to March, 2012. At the time of adjustment thereof, the appellant has intimated to the department that appellant is adjusting the excess payment of Service Tax during the period 2008-09 against the demand of Service Tax of October, 2011 to March, 2012. In that circumstances appellant allowed by the authorities below adjustment thereof as if the same was not adjusted, the Adjudicating Authority was required to refund the said amount to the appellant alongwith interest which they have failed to do so. In that circumstances, I allow the adjustment of Rs. 751234/- against the demand for the period October, 2011 to March, 2012.

4. In view of this, I set aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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