IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT No. I

APPEAL No. ST/88397/2014

(Arising out of Order-in-Appeal No. AV(75)319/2013 dated 19.5.2014 passed by Commissioner of Central Excise, Customs & Service Tax (Appeals), Aurangabad)

Spring Advertising Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Aurangabad **Respondent**

Appearance:

Shri Sumeet Tholle, Advocate, for appellant
Shri Vivek Dwivedi, Assistant Commissioner (AR), for respondent

CORAM:

Hon'ble Mr. Ramesh Nair, Member (Judicial)
Hon'ble Mr. Raju, Member (Technical)

Date of Hearing: 13.4.2018
Date of Decision: 25.4.2018

ORDER NO. **A/86185/2018**

Per: Ramesh Nair

The facts of the case are that the appellant is engaged in collecting advertising material from their clients and forwarding the same to the newspaper for advertising in the newspaper. The Revenue has sought to classify the service of the appellant under advertising service and demanded service tax.

2. Shri Sumeet Tholle, learned counsel appearing on behalf of the appellant, submits that on the identical issue for the past period in appellant's own case, this Tribunal has decided the issue vide order No. A/1148-1150/14/CSTB/C-I dated 26.6.2014. Therefore, the issue is no more under dispute.

3. Shri Vivek Dwivedi, learned Assistant Commissioner (AR) appearing on behalf of the Revenue, reiterates the finding of the impugned order. He further submits that in the earlier case the facts were not available on record. However, in the present case, as per the facts, the appellant's activity is clearly classifiable under advertising service. Therefore, the judgment of this Tribunal for the earlier period shall not apply in the present case.

4. We have carefully considered the submissions and perused the records. On perusal of the records, we find the activity for which the Tribunal has decided the case vide order dated 26.6.2014 is the same in the present case. The only difference is that the earlier case was for the past period and this is for the subsequent period. No new facts are brought in the present case. Therefore, the decision given by the Tribunal vide order dated 26.5.2014 is clearly applicable in the present case. The Tribunal in its order passed the following order:-

"7. We have gone through the adjudication order and the order passed by the Commissioner (Appeals). In the adjudication order dated 15-6-2011 there is a specific finding that the appellant was not engaged in making, preparation, display or exhibition of advertisement. The Commissioner (Appeals) in the impugned order also held that the appellants are engaged in collecting advertisement from Mulay Group of Companies and forwarding the same to the desired newspaper. Hence this activity shows that the appellants are engaged in the activity which is connected with the activity of advertisement published. As per Section 65(3) of the Finance Act, 1994 advertisement agency means "any person engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant". A reading of the definition of "advertising agency" shows that a person should be engaged in providing any service connected with the making, preparation, display or exhibition of advertisement. The admitted fact is that the appellants are not undertaking any activity connected with the making, preparation, display, etc., and the appellants are only collecting the advertising and the same is forwarded to various newspapers for publication. In these circumstances, we find merit in the contention of the appellant that the appellants are not providing any activity which covers under the category of advertising agency. The impugned orders are set aside and the appeals are allowed.

8. The appellants are entitled for consequential relief, if any, in accordance with law."

5. In view of the above Tribunal's reasoned order and following the judicial discipline, the impugned order does not sustain and the same is set aside. Appeal is allowed.

(Pronounced in court on 25.4.2018)

(Raju) **Member (Technical)**	**(Ramesh Nair)** **Member (Judicial)**

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