IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

Appeal No. ST/87627/2015

(Arising out of Order-in-Appeal No. PUN-SVTAX-000-APP-0071-14-15 dt.19/3/2015 passed by the Commissioner of Service Tax (Appeals)Pune)

M/s. A Group Associates : **Appellant**

VS

Commissioner of Service Tax, Pune : **Respondent**

Appearance

None for Appellant

Shri M.P. Damle, Asstt. Commr. (A.R) for respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. Sanjiv Srivastava, Member (Technical)

Date of hearing : 26/07/2018
Date of decision : 26/07/2018

ORDER NO. A/87415/2018

Per : Dr. D.M. Misra

This is an appeal filed against Order-in-Appeal No. PUN-SVTAX-000-APP-0071-14-15 dt.19/3/2015 passed by the Commissioner of Service Tax (Appeals) Pune.

2. Briefly stated the facts of the case are that the appellants were providing advertisement services during the period 2007-08 and 2008-09 but short paid service tax amounting to

Rs.37,85,549/-. Consequently, demand notice was issued to the appellant on 30.3.2012 for recovery of the said service tax amount along with interest and proposal for penalty. On adjudication, the demand was confirmed along with interest and penalty. Aggrieved by the said order, they filed appeal before the Ld. Commissioner (Appeals), who in turn, rejected their appeal. Hence, the present appeal.

3. On 20th July 2018, when the matter was listed for hearing, the Ld. Chartered Accountant Shri Mohit Rawat for the appellant has submitted that they were withdrawing their Vakalatnama due to non-receipt of instruction from the appellant and undertook to communicate the next date of hearing to the appellant; accordingly the matter was adjourned to 26.7.2018. On 26.7.2018 none appeared for the appellant nor there was any request for adjournment.

4. Ld. AR for the Revenue has submitted that further adjournment would only delay the matter and no fruitful purpose would be served. Consequently, the appeal has been taken up for disposal on the basis was records after hearing the Ld. A.R for the Revenue.

5. Ld. AR for the Revenue submits that the appellant has neither filed any reply to the show cause notice nor appeared for personal hearing before the adjudicating authority. He took us through para 7 of the order of the adjudicating authority whereunder it is recorded that even though the personal hearings were fixed from time to time, the same was not attended by the appellant.

6. The allegation of the department is that even, though the appellant had filed service tax ST-3 Returns for the years 2007-08 and 2008-09, the amount disclosed thereunder were not the correct gross receipts in comparison to the receipts shown in their balance sheets for the respective years. Consequently, on the differential value, demand notice was issued and confirmed. The appellant has not submitted any evidences in rebutting the allegations of the department and furnishing explanation stating non-receipt of the amount as shown in their balance sheet nor any evidence brought on record to show that the differential value received in the respective years were not related to the taxable service rendered by them during the relevant period. We find that the appellants were neither serious in prosecuting their case before the authorities below nor before this Tribunal by producing evidences to rebut the allegation of the department of excess receipt of the taxable value as were shown in the respective balance sheets of the financial year 2007-08 and 2008-09 in comparison to the ST-3 Returns. In these circumstances, we do not find any reason to interfere with the concurrent findings of the authorities below. In the result, the impugned order is upheld and the appeal is dismissed.

(Operative portion of the order pronounced in court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

SM.