IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

Appeal No. ST/86323/2015

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APP/285/14-15 dated 20.02.2015 passed by Commissioner of Service Tax (Appeals), Nagpur)

Commissioner of Central Excise, Nagpur I — **Appellant**

Vs.

Paramount Conductors Ltd. — **Respondent**

Appearance:

Shri M.P. Damle, Asst. Commr (AR) — for appellant
Shri B. Raichandani, Advocate — for respondent

CORAM:

Hon'ble Mr. S.K.Mohanty, Member (Judicial)
Hon'ble Mr. P. Anjani Kumar, Member (Technical)

Date of Hearing / Decision: 26.11.2018

FINAL ORDER NO. **A/88139 / 2018**

Per: S.K. Mohanty

Heard both sides and perused the records.

2. Revenue is in appeal against the impugned order dated 20.02.2015 passed by the Commissioner of Central Excise and Service Tax, Nagpur. The impugned order has been assailed on the ground that Rule 2A of Service Tax (Determination of Valuation) Rules, 2006 is only applicable to "Works Contract

Service" and does not apply in the case of "Management, Maintenance or Repair Service". Thus, Revenue contended that allowing the benefit of abatement under Notification No. 12/2003-ST dated 20.06.2003 by the learned Commissioner (Appeals) is not proper and justified.

3. On perusal of the available case records, more specifically, the Notice dated 28.09.2012, we do not find that the Revenue had raised any ground to deny the abatement as provided under the afore-said Notification. Since the show-cause notice is silent regarding denial of abatement benefit, the learned Commissioner (Appeals) upon perusal of available documents vis-à-vis the statutory provisions has extended such benefit to the respondent herein. Thus, the impugned order passed by him cannot be interfered with on merits at this juncture. Further, Revenue's contention that after deducting the value of the goods used in the MMR service, further deduction has also considered, we find that this aspect has also been considered by the learned Commissioner (Appeals) in extending the benefit to the respondent. Moreover, show-cause notice had not specifically alleged regarding extension of such benefit to the respondent. Further-more, the show-cause notice has also not calculated the amount of service tax, actually payable by the respondent.

4. Therefore, we do not find any justifiable reason to interfere with the impugned order passed by the learned Commissioner (Appeals). Accordingly, appeal filed by Revenue is dismissed.

(Order dictated in Court)

(P. Anjani Kumar)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)

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