CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
WEST ZONAL BENCH
COURT No.

Appeal No. ST/137/2012

(Arising out of Order-in-Original No. 452/36/V/2011/COMMR/KS/ST dated 20.12.2011 passed by Commissioner of Service Tax, Mumbai)

TRIG Guard Force Ltd. **Appellant**
Trig House, 10th Road,
JVPD Scheme, Juhu,
Mumbai 400 049

Vs.

Commissioner of ST, Mumbai-II **Respondent**
4th floor, New Central Excise Bldg.,
M.K. Road, Churchgate,
Mumbai 400 020.

WITH

Appeal No. ST/371/2012

(Arising out of Order-in-Original No. 452/36/V/2011/COMMR/KS/ST dated 20.12.2011 passed by Commissioner of Service Tax, Mumbai)

TRIG Guard Force Ltd. **Appellant**
Trig House, 10th Road,
JVPD Scheme, Juhu,
Mumbai 400 049

Vs.

Commissioner of ST, Mumbai-II **Respondent**
4th floor, New Central Excise Bldg.,
M.K. Road, Churchgate,
Mumbai 400 020.

AND

Appeal No. ST/85353/2013
ST/CO/91036/2013

(Arising out of Order-in-Original No. 04/ANS-04/Trig Detective Th-01/2012 dated 29.10.2012 passed by Commissioner of Central Excise, Thane-I)

TRIG Detective Pvt. Ltd. **Appellant**
Trig House, 10th Road,
JVPD Scheme, Juhu,
Mumbai 400 049

Vs.

Commissioner of ST, Mumbai-II **Respondent**
4th floor, New Central Excise Bldg.,
M.K. Road, Churchgate,
Mumbai 400 020.

AND

Appeal No. ST/85486/2013
ST/CO/91046/2013

(Arising out of Order-in-Original No. 05/ANS-05/Trig Detective/Th-01/2012 dated 05.11.2012 passed by Commissioner of Central Excise, Thane-I)

TRIG Guard Force Ltd. **Appellant**
Trig House, 10th Road,
JVPD Scheme, Juhu,
Mumbai 400 049

Vs.

Commissioner of ST, Mumbai-II **Respondent**
4th floor, New Central Excise Bldg.,
M.K. Road, Churchgate,
Mumbai 400 020.

AND

Appeal No. ST/85488/2013
ST/CO/91047/2013

(Arising out of Order-in-Original No. 05/ANS-05/Trig Detective/Th-01/2012 dated 05.11.2012 passed by Commissioner of Central Excise, Thane-I)

TRIG Guard Force Ltd. **Appellant**
Trig House, 10th Road,
JVPD Scheme, Juhu,
Mumbai 400 049

Vs.

Commissioner of ST, Mumbai-II **Respondent**
4th floor, New Central Excise Bldg.,
M.K. Road, Churchgate,
Mumbai 400 020.

Appearance:

Shri M.H. Patil, Advocate for the Appellant
Shri M.K. Sarangi, Authorised Representative for the Respondent

CORAM:

Hon'ble Mr. Sanjiv Srivastava, Member (Technical)
Hon'ble Dr. Suvendu Kumar Pati, Member (Judicial)

FINAL ORDER NO. **A/85960-85964/2019**

Date of Hearing: 04.04.2019
Date of Decision: 04.04.2019

PER: SANJIV SRIVASTAVA

These appeals have been filed against various orders of the Commissioner of Service Tax, Mumbai-II confirming demand of service tax along with interest and also imposing penalties under various provisions of Finance Act, 1994.

2.1 Appellants are registered for providing taxable services under the category of “Security Agency Services”. Acting on the intelligence that appellants were collecting service tax from their client but not depositing the same, an investigation was undertaken. After completion of investigation, show cause notices were issued demanding service tax not paid by the appellants to the exchequer.

2.2 After following the principles of natural justice, the Commissioner has adjudicated the show cause notice as indicated in para 1, supra.

2.3 Aggrieved by the orders of the Commissioner, appellants are in appeal.

2.4 Revenue has also filed cross objections in the matter.

3.1 We have heard Shri M.H. Patil, Advocate for the appellants and Shri M.K. Sarangi, Additional Commissioner Authorised Representative, for the Revenue.

4.1 Arguing for the appellants, learned counsel submitted that he is not disputing the demand of service tax either on merits or on limitation. Neither he is disputing the imposition of penalty. He is only disputing the quantification of the demand for the reason that the appellants have certain documents as per which certain amount of service tax was paid to the exchequer which has not been taken into consideration. Accordingly he submitted that the demand needs to be re-quantified.

After such re-quantification, they will pay the service tax along with interest and penalties imposed. He also undertook to produce all the documents before the adjudicating authority when called for, and in case the documents are not produced or lacking Commissioner should draw adverse inference.

4.2 Learned Authorised Representative reiterated the orders of the learned Commissioner.

5.1 The matter is heard and submission made by learned counsel for the appellants and learned AR taken on record.

5.2 In our view since the issue that is being contested is only in relation to quantification of demand interest and penalties, we are of the view that, matter can be remanded back for the determination of quantum of tax demand along with interest and penalties.

5.3 Except for quantification of the amounts in respect of all other counts we uphold the impugned order i.e. on the issues relating to merit of case, limitation and imposition of penalty against the appellants.

5.4 Since the matter is quite old, Commissioner should in remand proceedings determine quantum of tax to be paid with interest and penalties within a period of four months from the receipt of this order. The appellants should co-operate and produce all the documents for reconciliation before the Commissioner on the date and time fixed by him. In case of non-production of the documents for reconciliation, the Commissioner shall draw adverse inference. With the above direction, the matter is remanded back to the adjudicating authority. After completion of adjudication in remand proceedings, the Commissioner shall intimate the Bench along with copy of order within six months from the date of receipt of this order.

6.1 Appeals are remanded to the adjudicating authority in above terms. The cross objections filed by the Revenue are also disposed of.

(Order dictated & pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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