CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

Service Tax Appeal No: 87852 of 2017

[Arising out of Order-in-Appeal No: NGP/EXCUS/000/APPL/246/17-18 dated 5th September 2019 passed by the Commissioner of Central Excise & GST (Appeals), Nagpur.]

Purti Power & Sugar Ltd … ***Appellant***
Khursapar Road, Bela, Tehsil Umred, Dist: Nagpur

versus

Commissioner of CGST & Central Excise ***…Respondent***
GST Bhavan, Telangkhedi Road, Civil Lines, Nagpur

APPEARANCE:

None for the appellant

Shri Atul Sharma, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO: A/88475 / 2018

DATE OF HEARING: 17/04/2018
DATE OF DECISION: 17/04/2018

PER: C J MATHEW

This appeal of M/s Purti Power & Sugar Ltd lies against order-in-appeal no. NGP/EXCUS/000/APPL/246/17-18 dated 5th September

2019 of Commissioner of Goods, Service Tax & Central Excise (Appeals), Nagpur which has upheld the demand of ₹ 4,43,020/-, along with interest, and imposed penalty under section 78 of Finance Act, 1994.

2. None appeared for the appellant. We have heard Learned Authorised Representative.

3. The case against the appellant is that they are engaged in the manufacture and clearance of various 'sugar' and 'other products of sugar cane' but had failed to discharge tax liability of ₹ 4,43,020/- on 'reverse charge' for the renting of motor vehicles between July 2012 and October 2013 for carrying workers. After abatement, as provided in the statute, tax liability of ₹ 35,84,308 was computed on consideration of ₹ 59,73,846/- for this hiring. Appellant had paid the tax liability on 18th January 2014.

4. It is seen from the records that the tax liability has been discharged in full, that there is no finding that the interest liability has not been paid or was contested. Hence, the appeal is limited to the penalty that has been imposed. It is seen that the issue pertains to the period immediately after the negative list had come into force and that the 'reverse charge mechanism' prescribed for certain services was not fully comprehensible to all assessees. It is also seen that their submission that all details were duly recorded in their own books has

also not been controverted by the lower authorities.

5. In these circumstances, the proceedings should have terminated with the discharge of liability as laid down in section 73(3) of Finance Act, 1994. Consequently, the penalty is set aside and the appeal is allowed to that extent.

(Pronounced in open court)

(C J Mathew)
Member (Technical)

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