CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.407

Service Tax Appeal No. 89397 of 2018

(Arising out of Order-in-Appeal No. IM/CGST-AI/MUM/218/18-19 dated 10/08/2018 passed by the Commissioner of Central Tax (Appeals-I), Mumbai)

M/s Sai Video Broadcast Pvt Ltd. ....Appellant
Room No. 1638 3rd Floor
Vanrai colony Mhada, Kandivali West,
Mumbai, Maharashtra-400063

VERSUS

C.C.G.S.T., Mumbai East ....Respondent
Null 9th Floor, Lotus, Parel, Lotus Inforcentre,
Near Parel Station, Parel East, Mumbai
Mumbai, Maharashtra-400012

APPERANCE:

Shri Neerav R. Mainkar, Advocate for the Appellant
Shri Dharmendra Singh, Supdt. Authorised Representative, for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86678 / 2019

Date of Hearing: 17/09/2019
Date of Decision: 20/09/2019

PER: ARCHANA WADHWA

A very short issue is involved in the present Appeal. The appellant is engaged in providing video tape production service and is duly registered with the service tax department. As a result of Audit, it was found that the Appellant deposited service tax amounting to Rs. 17,76,434/- for the period from July, 2013 to October, 2013 by mentioning the wrong Service Tax Registration No.

2. Accordingly, proceedings were initiated against them calling upon as to why the said payment should not be treated as non-payment of tax as the same stand deposited under a wrong Service Tax Registration No. and as to why further demand should not be made against them alongwith interest. During the course of adjudication, the Appellant took stand that a wrong Registration No. relates to one of the Directors of the Company, who is running his separate proprietorship business. They submitted that it was an inadvertent mistake on the part of assesee and accordingly prayed for rectifying the mistake.

3. The matter was adjudicated by the Deputy Commissioner, who referred to the Board's Circular No. 58/7/2003 dated 20.05.2003 laying down the procedure in case of wrong use of Registration No. and observed that as the assesee has obtained the no objection certificate for taking credit of the said amount of Rs. 7,76,434/- wrongly paid, from the person, in whose code the payment has been made, there is no need to further confirm the demand. Accordingly, he imposed penalty of Rs. 10,000/- in terms of Section 77 of the Finance Act, 1994 and vacated the show cause notice.

4. The said order was appealed against by the Revenue before Commissioner(Appeals). The appellate authority observed that the circular was clarifying the matter in respect of tax paid in wrong accounting head only and not tax paid in name of other registrant. As such, he observed that inasmuch as the service tax was paid under wrong Registration No., it has to be taken as no tax was paid.

He accordingly reversed the order of the original adjudicating authority. Hence, the present Appeal.

5. After hearing both the sides duly represented by Shri Neerav R. Mainkar, Advocate for the Appellant and Shri Dharmendra Singh, Supdt. Authorised Representative, for the Respondent I find that there is no doubt about the fact that the Appellant had deposited the service tax. However, instead of depositing the same in their own Registration No., the same was, by mistake, deposited in the Registration No. of one of the Directors, obtained by him for his own Proprietary Concern. Admittedly, the said Director has given No Objection Certificate and as such the deposit made by the Appellant has to be treated as having been made in his own Registration No. In the absence of any dispute to the fact of payment of service tax, further confirmation of the same by the impugned order of the Commissioner (Appeals) cannot be appreciated. Accordingly, I set aside the impugned order and restore the order of the original adjudicating authority and allow the Appeal with consequential relief to the Appellant.

(Order pronounced in the open Court on 20/09/2019)

(Archana Wadhwa)
Member (Judicial)

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