CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

SERVICE TAX APPEAL NO: 86012 of 2014

[Arising out of Order-in-Original No: GOA/ST/Commr/5/13-14 dated 30th September 2013 passed by the Commissioner of Customs, Central Excise & Service Tax, Goa.

Goa Industrial Development Corporation … ***Appellant***
Plot No. 13A-2, EDC Complex, Patto Plaza, Panaji,
Goa 403 001

versus

Commissioner of Central Excise & Customs ***…Respondent***
ICE House, EDC Complex, Patto Plaza, Panaji,
Goa 403 001

APPEARANCE:

Shri Bharat Raichandani, Advocate for the appellant

Shri M Suresh, Joint Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE DR SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO: A/87423 / 2019

DATE OF HEARING:	27/11/2019
DATE OF DECISION:	27/11/2019

PER: C J MATHEW

This appeal lies against demand of ₹ 1,37,03,649/- for the period from June 2007 to March 2011 as provider of 'renting of immovable property service', along with interest, and imposition of like sum under section 78 of Finance Act, 1994 in order-in-original no. GOA/ST/Commr/5/13-14 dated 30th September 2013 of Commissioner of Customs, Central Excise & Service Tax, Goa.

2. Learned Counsel for the appellant submits that the demand in the show cause notice, and confirmed in the adjudication order, pertains to transactions that were undertaken in Daman and Diu which does not fall within the jurisdictional competence of the adjudicating authority. Learned Counsel, while conceding that this ground has not been raised in the proceedings before the lower authority, also informs that the adjudicating authority appears to have merely extracted portions of the decision of the Larger Bench of the Hon'ble High Court of Delhi in *Home Solutions Retails (India) Ltd v. Union of India [2011 (24) STR 129 (Del.)]* without any analysis of the applicability of such decision to the present dispute and without considering the various submissions of theirs. It is also his contention that the liability to tax, as provider of vacant land on rent, which was not included in the taxable entry till 1st July 2010 has also failed to absorb the attention of the adjudicating authority.

3. We have heard Learned Authorised Representative who contends that the claim of the appellant to be a statutory body and, thereby, exempted from the purview of taxability is in contradiction

with the fresh ground of lack of jurisdiction. It is his contention that an entity incorporated in the state of Goa would come under the jurisdictional ambit of the adjudicating authority.

4. We are unable to agree with the contention of the Learned Authorised Representative that at this stage, in the absence of a finding on jurisdiction and on the merit of the various submissions made by the appellant herein before the original authority, we can decide on the matter.

5. To enable a proper disposal of the appeal, it is necessary to remand the matter back to the adjudicating authority for fresh decision. To do so, we set aside the impugned order and direct the original authority to decide the matter in *de novo* proceedings.

6. Appeal is accordingly disposed off.

(Order pronounced in the open court)

(C J Mathew)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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