CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Service Tax Appeal No: 86756 of 2015

[Arising out of Order-in-Appeal No: NGP/EXCUS/000/APP/201/15-16 dated 17th June 2015 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Nagpur.]

Latur District Co-Operative Bank Ltd
Kisan Bank Building, Yashwantrao Chavan Marg
Tilak Nagar, Latur … ***Appellant***

versus

Commissioner of Central Excise & Customs
Kendriya Utpad Shulk Bhavan, 2nd Floor
Telangkhedi Road, Civil Lines, Nagpur – 440 001 ***…Respondent***

APPEARANCE:

Shri Mahesh Raichandani, Advocate for the appellant

Shri OM Shivadikar, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: A/87585 / 2019

DATE OF HEARING: 09/07/2019
DATE OF DECISION: 09/07/2019

PER: C J MATHEW

In this appeal of M/s Latur District Central Co-op Bank Ltd, against order-in-appeal no. NGP/EXCUS/000/APPL/201/15-16 dated

17th June 2015 of Commissioner of Customs, Central Excise & Service Tax (Appeals), Nagpur which has modified the order of the original authority to the extent of setting aside one of the penalties, the challenge is to the tax liability alleged to have arisen from erroneous valuation adopted by the assessee. It would appear that the final accounts of the appellant, for 2011-12 indicated receipt of ₹ 85,16,505 against ₹ 37,76,846 that was declared in the statutory returns and tax of ₹ 4,88,185 was sought to be fastened on the differential of ₹ 47,39,659.

2. In response, it was contended by the noticee that ₹ 28,89,312 were on account of administrative expenses that were reimbursed and that ₹10,86,097 was an erroneous credit in the ledger. It is also contended that some amounts, though accrued, had not been received and hence not liable to tax. The adjudicating authority accepted the contention in relation to the erroneous credit but held that the other expenditure was liable to be included and fastened tax liability of ₹ 3,76,317 besides other detriments.

3. We have heard Learned Counsel for the appellant and Learned Authorised Representative.

4. Our attention was drawn to the decision of the Tribunal in *Latur District Co-op Bank Ltd v. Commissioner of Central Excise, Aurangabad [final order no. A/91736/17 dated 29th December 2017 disposing of appeal no. ST/85382/14-Mum against order-in-appeal no.*

AV (293) 232/2013 dated 24th October 2013 of Commissioner of Central Excise & Customs (Appeals), Aurangabad] and in *Latur District Co-op Bank Ltd v. Commissioner of Central Excise, Aurangabad [final order no. A/85123/18 dated 30th January 2018 disposing of appeal no. ST/89381/14-Mum against order-in-appeal no. AV (139) 81/2014 dated 2nd July 2014 of Commissioner of Central Excise & Customs (Appeals), Aurangabad]* pertaining to eligibility for the benefit of notification no. 3/2000-ST dated 6th July 2000 exempting activities under schemes of the Government of India. In those decisions, for want of consideration of the eligibility for this benefit in the orders impugned therein, the matters had been remanded back to the original authority.

5. In following the above decision, we set aside the impugned order and remand the matter back to the original authority for a fresh adjudication after submitting claim of coverage under the said notification to proper consideration.

(Pronounced in open court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as*