CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

SERVICE TAX APPEAL NO: 86588 of 2015

[Arising out of Order-in-Appeal No: PUN-SVTAX-000-APP-0026-15-16 dated 19th May 2015 passed by the Commissioner of Service Tax (Appeals), Pune.]

Kisanveer Satara Sahakari Sakhar Karkhana Ltd
Kisanveer Nagar, Bhuinj, Tal: Wai,
Dist: Satara – 415 530 …***Appellant***

versus

Commissioner of Central Excise, Customs & Service Tax
Vasant Plaza, 4th & 5th Floor, CS No. 1079/2 KH
Rajaram Road, Bagal Chowk, Kolhapur – 416 001 ***…Respondent***

APPEARANCE:

Shri JN Somaiya, Advocate for the appellant

Shri OM Shivadikar, Assistant 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/87573 / 2019

DATE OF HEARING: 20/08/2019
DATE OF DECISION: 20/08/2019

PER: C J MATHEW

Proceedings initiated against the appellant, M/s Kisanveer Satara Sahakari Sakhar Karkhana Ltd, for recovery of tax on 'renting of immovable property services', 'supply of tangible goods service', ‘commercial training or coaching centre’ and ‘recovery agent service’ rendered to recipients but not discharged by them, culminated in order of the adjudicating authority fastening liability of ₹ 7,20,956, for 2007-08 to 2011-12, under section 73 of Finance Act, 1994, along with appropriate interest under section 75 of Finance Act, 1994, besides imposing penalties, including under section 78, provided for in Finance Act, 1994. On appeal before the first appellate authority, *vide* order-in-appeal no. PUN-SVTAX-000-APP-0026-15-16 dated 19th May 2015, Commissioner of Service Tax (Appeals), Pune held that the liability, and detriment thereon, to be limited to ₹ 3,03,300, by allowing the benefit of threshold exemption under from notification no. 6/2005-ST dated 1st March 2005 and by excluding the deposits received from tenants, for 2010-11 and 2011-12.

2. The appellant is a manufacturer of sugar and molasses and, during the period of dispute, leased out some portion of their premises for which rent was being received, had hired out equipment, had received fees for computer training and had collected administrative charges for transfer of loan recoveries to banks from the amounts due to sugarcane farmers. These were sought to be subjected to tax under Finance Act, 1994. The dispute before us is now limited to confirmation of demand of ₹1,80,306 on net taxable value of ₹17,50,548 and of ₹1,22,994 on net taxable value of ₹11,94,118 in 2010-11 and 2011-12 respectively.

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

4. According to Learned Counsel, the bulk of the demands upheld in the impugned order arises from the allegation of having provided ‘supply of tangible goods service’ valued at ₹ 24,58,558 and ₹ 10,94,855 which, in their books of accounts, merely reflected the utilisation of their own equipment for activities within the production area and, therefore, not service rendered to others. We take note that, but for this disputed value, services rendered in 2010-11 and 2011-12 would also lie within the threshold prescribed in the exemption notification. The claim of the appellant herein that the equipment was used for their own benefit has not been considered by the lower authorities.

5. In order to enable scrutiny of this claim, we set aside the impugned order and remand the matter back to the original authority for ascertainment of applicability of the said notification if tax liability as provider of ‘supply of tangible goods service’ is held in favour of the noticee. Appeal is, accordingly, disposed of.

(Pronounced in the open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as*