CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

SERVICE TAX APPEAL NO: 86689 OF 2015

[Arising out of Order-in-Original No: PUN-SVTAX-000-COMMISSIONER - 010-14-15 dated 26th March 2015 passed by the Commissioner of Customs (Adjudicating Authority), Pune.]

Worbus Management Consultants Ltd
509, 5th Floor, West Wing, Aurora Towers,
Moledina Road, Pune Camp, Pune – 411 001 … ***Appellant***

versus

Commissioner of Central Excise & Service Tax
ICE House, 41/A Sassoon Road, Pune – 411001 ***…Respondent***

APPEARANCE:

None for the appellant

Shri Suresh Merugu, Joint 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 / 86641 /2021

DATE OF HEARING: 09/07/2021
DATE OF DECISION: 05/08/2021

PER: C J MATHEW

M/s Worbus Management Consultants Ltd is in appeal against order-in-original no. PUN-SVTAX-000-COMMISSIONER-010-14-15 dated 26th March of Commissioner of Customs (Adjudicating Authority), Pune in which demand of ₹ 9,55,178/- has been confirmed, under *proviso* to section 73(1) of Finance Act, 1994, on receipts for ‘management or business consultant service’ during the period from 2006-07 to 2010-11 and of ₹ 15,06,227/- by recourse to section 66A of Finance Act, 1994 for the period from 2006-07 to 2007-08, along with applicable interest under section 75 of Finance Act, 1994, and penalties under section 77 and 78 of Finance Act, 1994. In addition, the appellant was also directed, under section 73A(1) of Finance Act, 1994, to pay ₹ 10,57,485/- collected from customers without being deposited in the Consolidated Fund of India.

2. None appeared for the appellant. It is seen from the records that no representation has been entered on several occasions in the past. It is also seen from the record that the appellant had not entered any representation in the proceedings leading to the impugned order ostensibly on the ground of applying to the Settlement Commission in accordance with the provisions of Finance Act, 1994.

3. On perusal of the grounds of appeal, it is seen that the appellant has claimed that the tax liability, as provider of ‘management or business consultant service’, had been discharged and, therefore, the imposition of penalty is improper. Furthermore, insofar as the tax liability of ₹ 15,06,227/-, in accordance with section 66A of Finance Act, 1994, is concerned, it was contended that the nature of the expenses had not been subject to scrutiny.

4. Learned Authorised Representative submits that the claim of

the appellant of ‘out-of-pocket expenses’ having been included in the demand is not ascertainable in the absence of any details having been submitted and that it would be difficult for the claim to be rebutted in such absence at this stage.

5. We find that the appellant had not entered appearance before the original authority on the plea that they intend to subject themselves before the Settlement Commission. There is no evidence of such having occurred, and indeed, the filing of appeal before us is clear indication of incorrect averment having been made before the original authority. In the grounds of appeal too, no concrete counters to the findings of the original authority have been enumerated. The grounds of appeal are vague and insufficient to determine a finding on merit. The appellant has also foregone several opportunities to appear and to elaborate upon the grounds preferred in the appeal. We, therefore, do not find any reason to entertain the prayers and relief sought by the appellant.

6. Accordingly, the appeal is dismissed upholding the order of the original authority.

(Order pronounced in the open court on 05/08/2021)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as*