CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Service Tax Appeal No. 85174 of 2016

(Arising out of Order-in-Original No. PUN-SVTAX-000-COM-026-15-16 dated 30.10.2015 passed by the Principal Commissioner of Service Tax, Pune.)

M/s. Intox Pvt. Ltd. ....Appellant
375, Urawade Road, Urawade,
Tal.- Mulshi, Dist.- Pune – 412 115

VERSUS

Commissioner of Service Tax-I, Pune ....Respondent
ICE House, 41/A, Sasson Road,
Opp. Wadia College,
Pune – 411 001

APPERANCE:

Shri Bharat Raichandani, Advocate for the Appellant

Shri Dilip Shinde, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/87123 / 2021

Date of Hearing: 25.10.2021
Date of Decision: 25.10.2021

PER: DR. SUVENDU KUMAR PATI

We have heard on the appeal from both the sides. Facts of the case in brief is that appellant is a registered service provider who has been providing services of technical testing analysis and certification agency service to domestic and overseas customers. For services to the overseas customers, has not been paying Service Tax claiming the services as export of service made under provisions of Rule 6(A) of the Service Tax Amendment Rules, 2012. It has been alleged in the Show-cause notice that during the course of audit of the noticee's record, it has been noticed that contrary to the claim of appellant regarding rendering services to overseas customer, it was infect rendered in India and as per place of provision of services, tax on service to the tune of Rs.1,77,08,530/- was payable by the appellant along with interest and penalty. Appellant was put to Show-cause, matter was adjudicated upon duty liability, etc. were confirmed at the adjudication stage and the appellant stage, for which appellant is before us.

2. On close scrutiny of the evidence available on record, it is observed that noticee was put to Show-cause with demand of Service Tax etc. on the strength of its ST-3 returns, brochure of appellant company and its reply to the latter issued by the department. Though, Show-cause was issued on the strength of audit report, neither the same was accompanying the Show-cause nor any other document placing reliance on which appellant's tax liability was determined.

3. This being the facts on record, we are of the considered view that the appeal is required to be remanded back for re-adjudication after examination of relied upon documents by the

parties followed by their submissions and responses. Hence the order.

ORDER

4. The appeal is allowed. Matter is remanded back to the adjudicating authority to render categorical finding of fact after examining the relevant document that Revenue seeks to rely upon while making the charges in SCN.

5. Since the matter is substantially old, the adjudicating authority to decide this matter within three months of the date of receipt of this order after allowing hearing to the appellant.

(Pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Prasad