CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Cross Objection No. 91024 of 2017
In
Service Tax Appeal No. 85038of2017

(Arising out of Order-in-Original No. PUN-SVTAX-000-COM- 010 -16-17 dated 16.09.2016 passed by the Service Tax Commissionerate, Pune)

Commissioner of Central Excise and Service Tax, Pune-II .... **Appellant**
I.C.E. House, 41/A, Sassoon Road,
Pune- 411 001.

Versus

Comprehensive Support Service Pvt. Ltd. .... **Respondent**
401/402, Yash Towers, Opp. DAV Public School,
Aundh, Pune- 411 007.

Appearance:

Shri Adeeb Pathan, Authorized Representative for the Appellant

Shr Aditya Jain, Chartered Accountant for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86108/2024

Date of Hearing: 03.10.2024

Date of Decision: 03.10.2024

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the Respondent herein M/s Comprehensive Support Service Pvt. Ltd. is engaged in provision of canteen services to various industrial establishments located in MIDC area, Pune, and perform the activities as per the agreements entered with those establishments. The terms of the agreements, inter alia, specified that the respondent shall provide canteen and catering services to those industrial establishments; that the respondent has to procure raw materials on its own and to prepare food in the kitchen located in the factory premises and that

the factories shall be responsible to provide kitchen space, equipment, cooking appliances etc. The Respondent has contended that it is providing services in relation to serving food or beverages only in the canteens maintained in the factories governed under the Factories Act, 1948. It has further been contended that the canteens, in which the Respondent provides the services, are having the facility of air conditioning. For provision of such service, the respondent did not pay any service tax on the ground that its case was covered under entry Sr. No. 19 A in the Notification No. 14/2013-S.T., dated 22.10.2013. However, the department did not accept the contention of the respondent and accordingly, initiated show cause proceedings, which were culminated into the adjudication order dated 16.09.2016 (for short, referred to as 'impugned order'), wherein the learned Principal Commissioner of Service Tax, Pune has dropped the show cause proceedings initiated against the respondents, holding that they should be eligible for the benefit provided under the Notification No. 14/2013- S.T. dated 22.10.2013. Feeling aggrieved with the impugned order dated 16.09.2016, Revenue has preferred this appeal before the Tribunal.

3. We find that in exercise of the powers conferred by sub-section (1) of Section 93 of the Finance Act, 1994, the Central Government has issued the Notification No. 14/2013-S.T. dated 22.10.2013, by inserting Sr. No. 19 A therein, which reads as under:

> *"19A. Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 (63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year."*

4. In terms of the said notification, services provided for serving of food or beverages in a canteen maintained by the factory was exempted from payment of Service Tax. There is no ambiguity in reading the said notification. The show cause notice, in this case, has not disputed the fact that the factories, where the Respondent was proving the canteen facilities, were registered under the Factories Act, 1948 and that the canteens were having the air conditioning

facility. Thus, in our considered view, the learned Adjudicating authority has rightly dropped the show cause proceedings initiated against the respondent. We find that the issue arising out of the present dispute is no more *res* integra, in view of the orders passed by the Tribunal in the following cases:

(i) *M/s. ICS Foods Pvt. Ltd. Vs. CST – 2018 (7) TMI 1061-CESTAT- ALLAHABAD;*

(ii) *M/s. Sai Food Services Vs. Commissioner of CGST – 2020 (2) TMI 1394 – CESTAT MUMBAI;*

(iii) *Sodexo Facilities Management Services India Pvt. Ltd. Vs. Commissioner of CGST – 2021 (11) TMI 834 –CESTAT MUMBAI;*

(iv) *SaiPooja Enterprises Vs. Commissioner of C.Ex. – 2022 (11) TMI 696 – CESTAT AHMEDABAD*

5. Further, we also find that the order passed by the Tribunal in the case of ICS Food Pvt. Ltd. (supra) was upheld by the Hon'ble Supreme Court against the Civil appeal filed by the Revenue. The judgment of Supreme Court has been reported in 2019, (1) TMI 1837-SC.

6. In view of the fact that the issue arising out the present dispute is no more open for any debate, we do not find any merits in the appeal filed by the Revenue. Therefore, appeal filed by Revenue is dismissed. The cross objection filed by the respondent stands disposed off.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM