CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 85496 of 2023

(Arising out of Order-in-Original No. 30/NK/COMMR/RGD/2021-22 dated 27.12.2021 passed by the Commissioner of CGST & Central Excise, Raigad).

Dineshkumar Deepchand Sharma .... **Appellant**
2,2, F-3 Sector 3E/B, Kalamboli,
Raigad – 410 218.

Versus

Commissioner of Central Excise and Service Tax, Raigad .... **Respondent**
4th Floor, Kendriya Utpad Shulk Bhawan,
Plot No. 1, Sector-17, Khandeshwar,
Raigad – 410 206.

Appearance:
Shri Ramchandran Mattiyil a/w Nikhil Parekh, Advocates for the Appellant
Ms. S. Varalakashmi, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85923/2025

Date of Hearing: 12.06.2025
Date of Decision: 12.06.2025

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. The appellants herein are engaged in providing various category of services defined under Finance Act, 1994. For providing the services namely, supply of tangible goods, transport of goods by road / goods transport agency service, the appellants got themselves registered with the Service Tax Department and also duly discharged the service tax liability in respect of such service provided by them. Apart from providing the said taxable services, the appellants during the disputed period, had also provided the vehicles on hire to the Goods Transport Agencies, on which no service tax

liability was discharged by them. The Department had obtained the Tax Deducted at Source (TDS) certificates issued under the Income Tax Act, 1961 and compared those with the periodic ST-3 returns filed by the appellants and observed that in respect of providing vehicle on hire, they had not discharged the service tax liability. Accordingly, proceedings were initiated against the appellants, seeking for confirmation of service tax demand in respect of such hiring of services provided by Goods Transport Agency. The matter arising out of the present dispute was adjudicated vide the impugned order dated 27.12.2021, wherein the original authority has confirmed the service tax demand of Rs. 16,54,69,794/- along with interest and also imposed penalties under Section 77(2) and Section 78 of the Finance Act, 1994. Feeling aggrieved with the impugned order dated 27.12.2021, the appellants had preferred this appeal before the Tribunal.

3. Learned Advocate appearing for the appellants submitted that details of evidences regarding providing of vehicles on hire to the Goods Transport Agencies were not submitted before the original authority, owing to the reason that those documents were voluminous and the appellants were not in a position to arrange those documents during the Corona pandemic. Thus, he pleads that since those documents have to be examined in their proper perspective, for ascertaining whether service tax liability is required to be fastened thereunder, the matter should be remanded back to the original authority for carrying out the process of verification and *de novo* adjudication of the matter.

4. Learned Authorized Representative appearing for the Revenue has not raised any objection to the prayer made by the learned Advocate for the appellants for remanding the matter back to the original authority.

5. Since both sides consented that the matter should be examined afresh at the original stage, we are of the view that the original authority should examine the documentary evidences to arrive at the conclusion, as to whether, the vehicles provided on hire basis by the appellants to the Goods Transport Agencies should be liable for payment of service tax or otherwise. Therefore, the impugned order is set aside and the appeal is allowed by way of remand to the original authority for carrying out the *de novo* adjudication proceedings. Needless to say, that the appellants should be given reasonable opportunity of personal hearing to defend their case on merits.

5. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha/sj