(2013) 01 AHC CK 0471

In the Allahabad High Court

Case No : Writ Tax No. 870 of 2007

Bhagwati Security Services (Regd.) APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Citation : (2014) 45 GST 571 : (2013) 31 STR 537

Hon'ble Judges : Sushil Harkauli, J;Naheed Ara Moonis, J

Bench : Division Bench

Advocate : Virendra Kumar and Virendra Singh, for the Appellant; A. Nigam, ASGI, S. Chopra, SC, Subodh Kumar, Suneel Rai and Sunil Rai, Counsels, for the Respondent

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent No. 2, and seen the record. There is an agreement between the petitioner and the respondent no. 2 i.e. B.S.N.L., under which the petitioner was required to provide security services to the respondent no. 2. under agreement between the two parties. The agreement contained the terms of payment.

2. Subsequently service tax was demanded from the petitioner which has been deposited by the petitioner. The petitioner applied before the respondent no. 2 for reimbursement of the service tax, which request has been denied by the respondent no. 2 by the impugned order.

3. Only reason given for denying the reimbursement of the service tax is that the same was not contemplated in the service agreement.

4. Having gone through the agreement and the provisions of the relevant statute, we find that service tax is statutory liability. It is a tax which is required to be collected by the service provider from the person to whom service is provided, and thereafter to be deposited with Government treasury within the

prescribed time.

5. Thus essentially the statute is being imposing the tax upon the person to whom service is being provided, and the service provider is merely a collecting agency. In that view of the matter, the writ petition is allowed. The respondent no. 2 is directed to make reimbursement of service tax to the petitioner without further delay.

