
(2023) 10 CESTAT CK 0009

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 40602 Of 2014

M/s. Arignar Anna Sugar Mills

APPELLANT

Vs

Commissioner Of Central Excise And Service Tax

RESPONDENT

Date of Decision : 10-10-2023

Acts Referred:

Finance Act, 1994 — Section 65(68)

Citation : (2023) 10 CESTAT CK 0009

Hon'ble Judges : Sulekha Beevi C.S., Member (J); Vasa Seshagiri Rao, Member (T)

Bench : Division Bench

Advocate : T. Ramesh, Anandalakshmi Ganeshram

Final Decision : Allowed

Judgement

Sulekha Beevi C.S, J

1. Brief facts are that the appellants are holders of Central Excise Registration and are engaged in manufacture of Sugar and Molasses. They also hold Service Tax Registration for payment of Service Tax on "transport of goods by road in a goods carriage" services. It was ascertained by the Department that during the period from April 2011 to March 2012, the appellant had recovered some charges from the farmers towards sugarcane cutting and paid the same to labour contractors. The manner in which the appellant arranged for supply of cane harvesting labourers and the type of recovering charges towards cane cutting appeared to the Department to be covered under Manpower Recruitment and Supply Agency Services.

2. Statement of Demand No. 202012-ST dated 05.10.2012 was issued proposing to demand the Service Tax under the said category along with interest and for imposing penalties.

3. After due process of law, the original authority Vide Order-in-Original No. 19/2013-ST had confirmed the demand, interest and imposed penalties. Hence,

this appeal.

4. The Ld. Counsel Shri T. Ramesh appeared and argued for the appellant. The Appellant herein is a Co-operative Sugar Factory engaged in the Manufacture of Sugar. As per the agreement with the Farmers who grow sugarcane and supply the sugar cane, the Sugarcane grower are obligated to Harvest and supply the Sugarcane at the door steps of the Appellant's sugar factory.

4.1. The cost of cutting sugarcane and its transportation has to be borne by the Growers/Farmers. Some Farmers request the appellants to arrange for persons to cut the Sugarcane and accepted for deducting the cutting charges from the cane price. The Appellant facilitates farmers to get the cane cutting persons and cutting charge is fully paid by the Farmers. The Appellant do not receive any remuneration for making arrangement for cane cutting persons.

4.2. The issue is squarely covered by the Decision of this Hon'ble Tribunal in the case of M/S. The Amaravathi Co-Operative Sugar Mills Ltd Vs. CCE & ST, Coimbatore, Final Order NO.41991 of 2018, dated, 05.07.2018, Amrit Sanivni Sugarcane Transport Co. P.Ltd, reported in 2014(36) S.T.R.360 (Tri-Mum) and Shriram oos Tod Majoor Seva Sang, reported in 2015(38) STR 1052 (Tri-Mum), The issue is also covered by the Decision of Hon'ble Bombay High Court in the case of CCE&ST, Arungabad Vs. Shri Samarth Sevabhavi Trust-2016 (41) STR, 806 (BOM) and Godavar Khire Cane Transport Co (P) Ltd- 2015 (38) STR 468 (BOM) and vide the decision of this Hon'ble Tribunal in the case of CCE VS. Dharani Sugars - Final Order NO.42319/2017, dated, 26.9.2017.

4.3. The present appeal is filed against the Order In original NO.19 of 2013-ST, dated, 20.12.2013, confirming the demand raised in Statement of Demand dated, 05.10.2012, demanding the Service Tax under Manpower recruitment or supply' for the period April, 2011 to March, 2012.5.

5. It is submitted that the issue is covered by the decision in the appellants own case reported in 2019(26) GSTL 54 (Tri-Chennai). The Ld. Authorized Representative Smt. Anandalakshmi Ganeshram, appearing for the Department, supported the findings in the impugned order.

6. Heard both sides.

7. After perusal of records and hearing the submissions made by both sides, we find that the issue stands squarely covered by the decisions of the Tribunal in the appellants own case for a different period [2019 (26) GSTL 54 (Tribunal - Chennai)]. The relevant part of the order is reproduced as under: -

6. "The demand has been made on manpower supply service alleging that the appellant have supplied manpower to the sugarcane farmers for sugarcane harvesting. The contention of the department that the charges towards supply of cane harvesting labourers are recovered from the farmers at the rate accepted by the farmers and therefore the said activity would be covered within the definition of manpower recruitment or supply agency service under Section

65(68) of the Finance Act, 1994. The appellant has replied to the show cause notice dated 5-4-2011 it is explained by the appellant that there is no employer and employee relationship between the cutting labourers and the appellant. The appellant company has no say in the rate for cutting demanded by the labourers and the labourers have got every right to deny to cut for a particular sugarcane grower. The mill simply manufactures the sugar with regard to the availability of the cutting labourers only Being a Government undertaking, it can be seen that all appointments are to be made in the muster roll of the sugar mill. From the facts on record, it cannot be said that the appellants have provided harvesting labourers to the sugarcane growers for harvesting the sugarcane. The Tribunal on identical set of facts had considered the issue and held that the sugarcane growers themselves are encouraging the harvesting labourers and as a mere facilitation, the amount to be paid to these harvesters are deducted from the price of the sugarcane that is to be paid to the farmers. The Commissioner (Appeals) in a similar set of facts, in the appellant's own case, has set aside the demand.

7. From the discussions made above as well as the decisions in the identical matter, we are of the considered view that the demand cannot sustain and requires to be set aside, which we hereby do. The impugned orders are set aside and the appeals are allowed with consequential relief, if any.”

8. Following the said decision, we are of the opinion that the demand cannot sustain and requires to be set aside, which we hereby do.

9. The appeal is allowed with consequential reliefs, if any.