(2015) 11 CESTAT CK 0018

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 478 Of 2011

M/s Katiyal & Associates — APPELLANT

Vs

CCE, Indore — RESPONDENT

Date of Decision : 20-11-2015

Acts Referred:

Finance Act, 1994 — Section 65(19)

Citation : (2015) 11 CESTAT CK 0018

Hon'ble Judges : R. K. Singh, Technical Member;Sulekha Beevi, C.S., J

Bench : Division Bench

Advocate : Manish Saharan, Ranjan Khanna

Final Decision : Allowed

Judgement

1. Appeal has been filed against order-in-appeal dated 30.12.2010 in terms of which service tax demand of Rs.12,98,148/- for the period 2002-03 to

2006-07 was sustained alongwith interest and penalties under Business Auxiliary Service (BAS) on the ground that the appellant provided the said

service but did not pay service tax thereon.

2. Ld. Advocate for the appellant states that the service was provided by the appellant to various banks in accordance with an agreement in terms of

which it was required to verify the details relating to residential address and /or employers office address or any other details in respect of the

applicants seeking financial assistance from various banks and in respect of which these banks sought such verification. Thus, the only service

rendered was to verify the particulars of the various applicants who sought any service from the banks and such service was covered under Business

Support Service (BSS) which came into effect from 01.06.2006 and it has been paying service tax thereunder since then and the Revenue has been accepting the same. He cited the judgment in the case of Rakesh Porwal & Associates vs. CCE, Jaipur-II - 2011 (24) STR 408 (Tri. Del.) and S. R.

Kalyanakrishan vs. CCE, Cochin - 2008 (9) STR 255 (Tri. Bang.) in support of his contention.

3. Ld. DR, per contra, contended that evaluation of customers is covered under BAS and therefore the impugned order is sustainable.

4. We have considered the contentions of both sides. We find that the only service rendered by the appellant is to verify the details regarding

residential address and I or office address of the employer etc. given in the applications submitted to various banks. Mere verification of the details

given in the application would not qualify to be called evaluation of the customers or promoting I marketing the service of the banks and hence would

not be covered under BAS as defined under Section 65(19) of the Finance Act, 1994. Any elaborate discussion on this issue is obviated by the fact

that the issue involved has been settled by CESTAT in the case of Rakesh Porwal & Associates (supra) wherein it was held as under:

â??3. After hearing the Id. DR, we find that there is no dispute about the type of service being provided by the appellant. It is clear from the

agreement as also from the findings of fact by the lower authorities that the appellant had only provided the services of contact point

verification of residence and offices. As such, it is clear that it is only the contact point that is the addresses given by the client of the bank

which are required to be verified. No further service is being provided by the appellant. The verification of the addresses given by the

clients cannot be held to be a service equivalent to promoting or marketing the services of the bank or evaluating their prospective

customers. As such we are of the view that the services being provided by the appellant cannot be held to be covered under the category of

Business Auxiliary Services. We accordingly set aside the impugned order and allow the appeal with consequential relief to the appellanfâ?.

Indeed similar view was held by CESTAT in the case of S. R. Kalyanakrishan (supra) where it was observed that verification of correctness, fairness

and authenticity of information furnished by those seeking loan from Bank would not be classifiable under BAS. In the light of the foregoing, we hold

that the impugned order is not sustainable and therefore the same is set-aside and the appeal is allowed.

