(2023) 11 CESTAT CK 0014

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 42097 Of 2014

M/S. S. Thartius Engineering Contractors — APPELLANT

Vs

Commissioner Of Central Excise And Service Tax — RESPONDENT

Date of Decision : 16-11-2023

Acts Referred:

Citation : (2023) 11 CESTAT CK 0014

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

Bench : Division Bench

Advocate : K. Sankaranarayanan, N. Satyanarayanan

Final Decision : Allowed

Judgement

Sulekha Beevi C.S., Member (J)

1. Brief facts of the case are that the appellant was issued a Show Cause Notice dated 14.08.2012 proposing to disallow credit to the tune of Rs.67,860/- availed on the services received by them from M/s. Prathit Automation Technologies Private Limited, Thane.

2. The Department was of the view that the appellant had not made any entry in the ledger account or submitted the break-up details of the payment made and that therefore, there is no evidence of payment of the value of the services or the Service Tax on such value.

3. After due process of law, the original authority vide Order-in-Original No. 44/2013 (ST) dated 24.10.2013 confirmed the demand, interest and imposed equal penalty on the appellant. On appeal, the Commissioner (Appeals) vide order impugned herein upheld the same. Hence, this appeal.

4.1 Shri K. Sankaranarayanan, Ld. Counsel, appeared and argued on behalf of the appellant. It is submitted that the appellant had furnished three invoices for the split-up value of services as well as the tax paid by them to the service provider viz., M/s. Prathit Automation Technologies Pvt. Ltd.; the appellant had also produced Bank Statement to show the flow of amount from the appellant to the service provider; in spite of this, the Department has alleged that the appellant has not furnished sufficient proof to establish that the value of services and the Service Tax thereon had been paid to the output service provider.

4.2 The Ld. Counsel prayed that the appeal may be allowed.

5. Shri N. Satyanarayanan, Ld. Authorized Representative, reiterated the findings in the impugned order.

6. Heard both sides.

7. On perusal of the impugned order, we find that the Show Cause Notice has been issued alleging that the appellant has not established that the value of the services and the Service Tax on such value was paid to the output service provider. However, we find that the appellant has furnished the invoices evidencing the payment of consideration for the services as well as the Service Tax. The ledger extract is also furnished to show the payments for the three invoices; the Bank Statement also establishes the case of the appellant. In view of the above, we hold that the Show Cause Notice is based on erroneous facts.

The confirmation of demand, interest and penalty imposed, therefore, cannot sustain.

8. In the result, the impugned order is set aside.

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