(2015) 09 CESTAT CK 0010

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 287 Of 2009

M/s Tops Detective and Security Services Ltd. APPELLANT

Vs

CCE, Indore RESPONDENT

Date of Decision : 10-09-2015

Acts Referred:

Citation : (2015) 09 CESTAT CK 0010

Hon'ble Judges : G. Raghuram, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : Ranjan Khanna

Final Decision : Dismissed

Judgement

1. Appeal has been filed against order-in-appeal No.IND-1/09/2009 dated 15/21.01.2009 which upheld the service tax demand of Rs.15,89,035/-

alongwith interest and penalties on the ground that the appellant had not discharged the service tax liability on the entire receipts under security

service. When the case was called for hearing today there was no representation on behalf of the appellant. It is seen that the notice of hearing was

duly sent to the address recorded in the appeal under registered A.O. and has been received back with the postal remark ""for redirection addressee

moved"". In these circumstances, we proceed to decide the appeal on merit.

2. The appellant has essentially contended that:

(i) It has paid the service tax on the actual receipt while the figures in the balance sheets were on accrual basis.

(ii) It submitted reconciliation statement and only minor variations could not be reconciled.

(iii) For the payment of interest and education cess under wrong accounting head was mentioned by mistake but the payment itself was not in dispute.

(iv) There was no suppression of facts or wilful mis-statement.

3. Ld. DR on the other hand stated that the impugned order clearly bringsout the liability to the appellant as well as the suppression on the part of the

appellant and the reconciliation statement was not based on supporting evidence.

4. We have considered the facts on record. As is clearly recorded by the Commissioner (Appeals) the appellant did not submit any evidence to show

that it had actually paid service tax on the proceeds actually received by them and that the receipt shown in the balance sheet did not represent the

actual realisation. He has also recorded that for reconciling the figures the appellant did not extend any cooperation adding that the onus for such

reconciliation clearly rested with the appellant. The act of non furnishing of information by the appellant amounts to suppression of facts as has been

held by the Uttarakhand High Court in the case of CCE, Meerut vs. Khushal Fertilisers Pvt. Ltd. - 2008 (229) ELT 652. It may also be pertinent to

mention here that the Commissioner (Appeals) also passed the impugned order on the basis of the facts available on record as no one appeared for

personal hearing on behalf of the appellant before him.

5. In the light of the foregoing, we do not find any such infirmity in the impugned order as to warrant appellate intervention. Appeal is dismissed.

