(2015) 10 CESTAT CK 0020

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 60361 Of 2013, Service Tax Stay Application No. 61368 Of 2013

M/s Unipro Marketing Pvt. Ltd. APPELLANT

Vs

CCE And ST, New Delhi RESPONDENT

Date of Decision : 26-10-2015

Acts Referred:
Finance Act, 1994 — Section 77, 78

Citation : (2015) 10 CESTAT CK 0020

Hon'ble Judges : G. Raghuram, J;C. J. Mathew, Technical Member

Bench : Division Bench

Advocate : Akhil Gupta, Suchitra Sharma

Final Decision : Dismissed

Judgement

1. Heard the Id. Counsel for the appellant and Id. DR for the respondent-Revenue. In the facts and circumstances of the case, which we advert to

shortly, at the stage of hearing the application for waiver of pre-deposit and stay we dispose of the appeal itself on merits as the issue falling for

consideration is in a narrow compass.

2. The assessee is the appellant. Appeal is preferred against the order dated 19.08.2013 of the Id. Commissioner (Appeals), Delhi-II rejecting an

appeal preferred by the assessee against the primary adjudication order dated 09.05.2013 whereby service tax demand of Rs.10,00,698/- was

confirmed alongwith interest and penalties under Sections 77 and 78, on the ground that the assessee provided construction service during 2007-08 and

2008-09.

3. The impugned order was passed on the ground that the appellant failed to pre-deposit of Rs. 5 lakhs, ordered to be pre-deposited on 15.07.2013 by

the lower appellate authority. The fact that the assessee failed to comply with the pre-deposit ordered on 15.07.2003 is not in dispute. The impugned

order also notices that the appellant sought modification of the order dated 15.07.2013 but this request was rejected since the lower Authority had no

power conferred under the provisions of Finance Act, 1994 to review his own order.

4. The impugned order passed by the Id. Commissioner (Appeals) rejecting the assessee's appeal is in the circumstances impeccable and warrants no

appellate interference. The appeal is rejected. No costs however.

