

Computer Age Management Services Private Ltd. Vs. Commissioner of Central Excise and Service Tax, Ltu, Chennai

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : May-01-2014

Judge : The Honourable Mr. Pradip Kumar Das, Judicial Member

Appeal No. : Appeal No.ST/S/40851 of 2014 & ST/40632 of 2014 [Arising Out of Order-in-Appeal No.46 of 2013 dt. 23.10.2013 passed by the Commissioner (Appeals) Central Excise, & Service Tax, LTU, Chennai]

Appellant : Computer Age Management Services Private Ltd.

Respondent : Commissioner of Central Excise and Service Tax, Ltu, Chennai

Judgement :

Pradip Kumar Das, J.

1. After hearing this matter at length, I find that the appeal may be decided at the stage of stay petition hearing. Accordingly, after disposing the stay application, the appeal is taken up for hearing.

2. Heard both sides and perused the records.

3. The appellant is engaged in providing services such as "Share Transfer Agent", "Registrar to an issue" and "Renting of Immovable Property". The appellants made excess payment of tax by cash in the month of April 2009 against tax liabilities

which they have adjusted in the months of May 2009, June 2009 and July 2009. A show cause notice dt. 15.11.2010 was issued on the ground that adjustments of tax liability in the subsequent months were not in conformity with Rule 6 (4A) of Service Tax Rules, 1994. Hence it was proposed to demand an amount of Rs.14,54,726/- towards tax short paid due to excess adjustment under Rule 6(4A) of the Service Tax Rules. It was also proposed demand of interest and imposition of penalty. The adjudicating authority confirmed the demand of tax along with interest and dropped the penal proceedings. Commissioner (Appeals) upheld the adjudication order.

4. The appellant in their reply to show cause notice had taken a stand that they have obtained Centralized Registration and covered under Rule 4(2) of Service Tax Rules and entitled for adjustment of excess credit as permitted under Rule 6 (4B) (ii). It is also stated that the reason for excess payment is on account of delayed receipt of details of payments from their other offices. It is seen that Rule 6(4B) (ii) provides that excess amount paid by an assessee registered under sub-rule (2) of Rule 4, on account of delayed receipt of details of payments towards taxable services may be adjusted without monetary limit. The adjudicating authority observed though appellant has Centralized Registration, there is no evidence produced on record to show that excess payment was on account of delayed receipt of details of payments towards taxable services.

5. Ld. Authorized Representative on behalf of the Revenue submits that the Tribunal in the case of Rishi Shipping Vs CCE Rajkot 2014 (33) STR 595 (Tri.-Ahd.) held that intimation to the jurisdictional Central Excise officer is mandatory. In the present case, the appellant had not intimated the adjustment to the jurisdictional officer. In this context, Ld. AR drew the attention of the Bench to relevant portion of the adjudication order.

6. I find that adjustment of excess amount paid in the month of April 2009 was mainly denied on the ground that appellant had not produced the evidence to show that the excess payment was made on account of delayed receipt of details of payments towards taxable services. It is accepted that appellant has Centralized Registration and they have taken a definite stand in their reply to SCN

that excess payment was due to a belated receipt of the details of payments from their other offices. In my considered view, the appellant should be given an opportunity to produce the evidence before the adjudicating authority in the interest of justice. The adjudicating authority would also consider the revised return in respect of intimation of the adjustment of the excess amount paid by them in accordance with law.

7. In view of the above discussion, the impugned orders are set aside and the matter is remanded back to the adjudicating authority to decide afresh after considering the evidences in accordance with law. Needless to say that the adjudicating authority shall give proper opportunity of hearing before decision. The appeal is allowed by way of remand. Stay application is disposed of.

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