

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III
Service Tax Appeal No.42320 of 2014

(Arising out of Order-in-Appeal No. TCP-CEX & CUS-000-APP-067-14 dated 21.08.2014 passed by Commissioner of Central Excise (Appeals), No.1, Williams Road, Cantonment, Trichirapalli 620 001)

M. Vijayabharathi

No.C-47, 9th Cross,
Thillai Nagar,
Tiruchirappali 620 018.

...Appellant

Versus

Commissioner of GST & Central Excise,

Trichy Commissionerate,
No.1, Williams Road,
Cantonment,
Tiruchirapalli 620 001,

...Respondent

APPEARANCE:

For the Appellant : Shri K. Sankaranarayan, Advocate

For the Respondent : Shri N. Sathya Narayanan, AC (A.R)

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING : 14.06.2023

DATE OF DECISION : 14.06.2023

FINAL ORDER No.40433/2023

Order : Per Ms. Sulekha Beevi C.S.

Brief facts are that based on intelligence that the appellant is providing services under 'Renting of Immovable Property Service' during the period from 2007-08 onwards and have not paid appropriate service tax, verification of the transactions were conducted by the Anti-Evasion Wing of the Department. On perusal of documents, it was noticed that agreements with tenants of Ananda Towers were jointly entered into by

the appellant as well as one Smt. Akila. The department was of the view that property tax on the said commercial complex was assessed jointly in the name of both appellant and other co-owner Smt. Akila and the rental income received by the appellant from the property has to be considered for discharging service tax. Show cause notice was issued proposing to demand service tax from both co-owners jointly. After due process of law, the original authority confirmed the demand, interest as well as imposed penalty. Against the order of original authority, appellant preferred appeal before Commissioner (Appeals) who upheld the same. Hence this appeal.

2. Ld. Counsel Shri K. Sankaranarayan appeared and argued for the appellant. It is submitted that the co-owner Smt. Akila had already preferred an appeal before the Tribunal and the demand was set aside as per Final Order No.42538/2018 dated 01.10.2018 observing that the rental income received separately is within the threshold limit and is not required to pay service tax. Ld. Counsel submitted that the same view may be taken in the case of this appellant also and prayed that the appeal may be allowed.

3. Ld. A.R Shri N. Sathya Narayanan appeared for the department and supported the findings in the impugned order.

4. Heard both sides.

5. On going through the records of the case, we find that in the case of the co-owner Smt. Akila, the Tribunal has set aside the demand observing that income received as rent separately by each co-owner is much below the threshold limit to subject to levy of service tax. Thus, the income falls

within the threshold limit for payment of service tax. Vide Final Order No.42538 dated 01.10.2018 the Tribunal has relied upon the decision of *Anil Saini Vs CCE Chandigarh* 2017 (51) STR (Tri.-Chan.). and also the case of *S.V. Janardhanam Vs CGST & CE Salem* - Final Order No.42474/2018 dated 25.09.2018. Following the decision in the case of the co-owner as well as other decisions, we hold that demand cannot sustain. Impugned order is set aside. Appeal is allowed with consequential relief, if any.

(Order dictated and pronounced in open court)

Sd/-
(M. AJIT KUMAR)
MEMBER (TECHNICAL)

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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