Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.1

Service Tax Appeal No. 12972 of 2019

(Arising out of CCESA-SRT-APPEAL-PS-364-2019-20 dated 30.08.2019 passed by Commissioner CGST & Central Excise (Appeals), Surat)

Akashkumar S Chaube **...Appellant**
Bunglow No.144/2, Vaghdhara Road,
Dadra, Silvassa, Dadra and Nagar Haveli

VERSUS

C.C.E. & S.T - Daman **...Respondent**
3rd Floor, Adarsh Dham Building,
Vapi, Daman Road, Vapi Opp. Vapi Town
Police Station, Vapi Gujarat-396191

APPEARANCE:
Shri D.K. Trivedi, Advocate appeared for the Appellant
Shri N.G. Makwana, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. 10847 /2025

DATE OF HEARING: 28.10.2025
DATE OF DECISION:28.10.2025

SOMESH ARORA

This is a matter in which demand of Rs. 1,32,000/- for the period 2013-2014 to 2015-2016 has been raised against the appellants on account of two services i.e. GTA Services and certain commission services received by them during the period. The show cause notice spells out that there were different figures in ST-3 returns when compared vis a vis profit & loss account figures as well as 26AS figures. The Learned Advocate takes this court through the order and draws the attention to the para 14.2 in which learned Adjudicating authority has stated as follows:

> "As regard to his defence and contention that the profit & loss account prepared for computation of income tax is no more acceptable and tenable is not correct because profit & loss is being prepared in arriving at net taxable income under the Income Tax Return and for assessment purpose. Moreover, the said profit & loss account is being certified by the Chartered Accountant. Hence, any particular declared therein carries weight and reflects true and correct picture of income and therefore, cannot be ignored. The said service provider though strongly contended in this regard but did not produce any documentary evidences at the time of personal hearing to prove that the said extra income was not relating to GTA Service. Accordingly, I do not agree with his contention and do not accept the same. Case laws as cited and relied upon by his are no more applicable in the instant case matter.

2. It is his submission that it is apparent that when the charge was of discrepancy of difference in three figures of ST-3 returns, Profit & Loss Account and 26 AS, the learned Adjudicating Authority has without any detailed reasoning just confirmed the demand that there was no documentary evidence produced to prove that extra income has

reflected in profit & loss account was not relating to GTA service. Similar the demand on commission income has been sustained for the same reason. It is his submission that when the charge was based on comparison of three figures i.e. ST-3 returns, Profit & Loss Account and 26 AS, simply pointing to what has been mentioned in the SCN about ST-3 returns and P&L account should not have been the reason to sustain the demand in view of various case law which are now available indicating that no one figure exclusively can be made basis for sustaining demand unless a verification of the same is done and sustained by the adjudicating authority. Learned Advocate also points out that even while issuing SCN no investigation/ verification was carried out.

3. Learned AR supports the order on the ground that there was no evidence produced and because of which he could not have done verification/ investigation or reconciliation of figures supported by the evidence by the party.

4. This court finds the position stated by both the sides is correct. The matter is therefore, remanded for re-adjudication by the learned adjudicating authority who should confine to the charge as has been alleged in the SCN and afford opportunity to the party to reconcile the figures with underlying evidence and approach the demand only after considering various case law which prohibit that no one books of accounts or 26AS or income tax returns exclusively can be the basis to confirm the demand. Also whether in such a situation extended period invocation was warranted or not shall also be examined. Matter is remanded in above terms. Appeal allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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