

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 53149 of 2016

(Arising out of Order-in-Appeal No. DLI-SVTAX-001COM0051617 dated 30/05/2016 passed by the Principal Commissioner Service Tax, Delhi)

Prabhatam Aviation Private Ltd.

Rahstriya Tower,
38, Rani Jhanis Road
New Delhi-110055

.... Appellant

VERSUS

Principal Commissioner, Service Tax-Delhi IRespondent

17-B, I.A.E.A. House
I.P. Estate, M.G. Marg,
New Delhi-110002

APPEARANCE:

Shri Puneet Sinha, Chartered Accountant for the Appellant
Shri Radhe Tallo, Authorized Representative of the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50506/2022

Date of Hearing: 08.06.2022
Date of Decision: 08.06.2022

Anil Choudhary:

Heard the parties.

2. Learned Counsel submits that on receipt of the Show cause notice dated 24/10/2013, they had given representation to the department as early as on 24 & 30/12/2013 and requested for supply of the RUD's. Thereafter, no RUD's were supplied and this was again pointed out when they file the interim reply to the Show cause notice dated 19/11/2014, which was filed at the time of personal hearing on 24/11/2014.

3. Learned Counsel states that in spite of repeated requests, the RUD's were never supplied and there was some change in the Adjudicating Authority in the meantime, and thereafter the Order-in-Original was passed without making the RUD's available. Accordingly, the appellant have been prejudiced, as they did not have fair opportunity of hearing in absence of supply of RUD's. It is further prayed that in the interest of justice, the appeal may be allowed by way of remand with appropriate directions.

4. Learned DR after going through the records, also suggests that as there is quantification issue involved, part of the services were rendered in the State of Jammu & Kashmir, for which there appears no segregation in the impugned order.

5. Having considered the rival contentions, we find it just and proper to allow this appeal by way of remand. Accordingly, we set aside the impugned order and remand to the original Adjudicating officer and further direct the Adjudicating Authority to supply the RUD's to the appellant, preferably within a period of 45 days from the date of receipt of the copy of this order. Thereafter, the appellant shall have 60 days time to file the reply before the Adjudicating Authority and thereafter, the Adjudicating Authority after perusing the reply to the Show cause notice and also going through the evidence and hearing the appellant, shall pass a reasoned order in accordance with law.

(order dictated in open court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)