

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

PRINCIPAL BENCH – COURT NO. 1

Service Tax Appeal No. 53660 of 2015

(Arising out of Order-in-Original No. JOD-EXCUS-000-COM-0011-15-16 dated 22.7.2015 passed by the Commissioner of Central Excise, Jodhpur)

M/s Raj West Power Limited

Appellant

Village & Post – Bhadresh, Post Box No. 30,
Dist. Barmer, Rajasthan

Versus

Commissioner of Service Tax, Jodhpur

Respondent

New Central Revenue Building, Statue Circle,
C-Scheme, Jaipur - 302005

Appearance

Shri Anirudh Samant Roy, Advocate - for the appellant

Shri R.K. Manjhi, DR - for the respondent

Date of Hearing: 28.02.2019

Date of Decision : 28.02.2019

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)

Final Order No. 50381/2019

Per **Justice Dilip Gupta:**

This appeal has been filed under Section 86 of the Finance Act, 1994 (hereinafter referred to as 'Act'), to assail the order dated 20 July, 2015 passed by the Principal Commissioner,

Customs & Central Excise, Jaipur holding that the appellant is not entitled to the immunity since it had made a substantially false declaration under Chapter VI relating to "Service Tax Voluntary Compliance Encouragement Scheme, 2013" (hereinafter referred to as 2013, Scheme) and for recovery of the remaining 'tax dues' and for imposition of penalty and interest.

2. The appellant is engaged in the business of generation of electricity and is registered with the department. It filed a declaration to the designated authority under Section 107(1) of the 2013 Scheme on 30 December, 2013. Under Section 106 any person may declare his tax dues in respect of which no notice or an order of determination under Section 72 or Section 73 or Section 73A has been issued or made before the 1st day of March 2013. It, however, provides that where a notice or an order of determination has been issued to a person in respect of any period on any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period. Section 111 deals with failure to make a true declaration. Sub-section (1) provides that where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under the Scheme was substantially false, he may, for reasons to be recorded in writing serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short paid. Sub-section (2) provides that no action shall be taken under sub-section (1) after the expiry of one year from the date of declaration, while sub-section (3) provides that

the show cause notice issued under sub-section (1) shall be deemed to have been issued under Section 73, or as the case may be, under Section 73A and the provisions of the Chapter shall, accordingly apply.

3. The appellant claims that it had submitted the declaration under Section 107(1) of the 2013 Scheme under a mistaken belief of law that reimbursement of expenses are liable to service tax under Business Support Services. The Designated Authority, however, issued an acknowledgement of discharge under sub-section (7) of Section 107 of such dues to the appellant on 13_May 2014.

4. Subsequently, the Directorate General of Central Excise, (Intelligence), Ahmedabad issued a demand cum show cause notice dated 4 July 2014 to the appellant mentioning therein, that the appellant, as a recipient of taxable service of "Banking and Financial Services" as defined under Section 65(105)(zm) of the Act, is liable to pay service tax under reverse charge mechanism. The appellant was, therefore, called upon to show cause as to why the services provided by the banks based outside India to it should not be treated as taxable service under the category of "Banking and Financial Services." It is stated that an order against the appellant was passed which is the subject matter of appeal bearing No. ST/52337/2015 before this Tribunal.

5. Thereafter, a Show Cause Notice dated 10 December, 2014 was also issued to the appellant by the Commissioner in regard to

the application filed by the appellant under the 2013 Scheme mentioning therein that the appellant had declared the tax dues of Rs. 45,72,716/- on taxable receipts of Rs. 4,51,21,719/- under the category of "Business Support Services" and "Manpower Recruitment Service" received during the period from April, 2011 to June, 2012, but the appellant had failed to inform the Department about the remittance made in convertible foreign currencies to the service provider for obtaining the "Banking and Financial Services" and, therefore, suppressed the correct nature of taxable service. The Show Cause Notice stated that in terms of Section 105(1)(e) of the Act, "tax dues" means the service tax due or payable under the Chapter, but, not paid as on the 1st day of March, 2013 and, therefore, the appellant was required to declare all the "tax dues" for the period from 1 October 2007 to 31 December 2007 which were not paid/outstanding as on 1 March 2013. It was, therefore, stated that the declaration made by the appellant would come under the category of "substantially false" declaration and, thus, liable to be rejected under Section 111(1) of the Act. Paragraph 12 and 14 of the Show Cause Notice dated 10 December, 2014 are reproduced :

"12. In view of the above, the undersigned has reason to believe that the declaration made by the declarant under VCES, 2013 was substantially false and therefore liable to be rejected under Section 111(1) of the Finance Act, 2013. However, a show cause notice for recovery, appropriation of deposited amount (ST Rs. 89,43,093/- and interest Rs. 64,08,555/-) and proposing imposition of penalties has already been issued by the Additional Director General, DGCEI, Ahmedabad Zonal Unit, Ahmedabad vide F.No. DGCEI/AZU/36-98/2014-15 dated 04.07.2014 and therefore the same amount is not being demanded here again. Further, the Service tax (tax dues) of Rs. 45,72,716/- appears liable to be recovered from the declarant in terms of the provisions contained in

the proviso to Section 73(1) of the Finance Act, 1994 in accordance with Section 111 of the Finance Act, 2013; however since the amount of tax of Rs. 45,72,716/- has already been paid by declarant under VCES, the same is liable to be appropriated in Govt. Account. The interest at appropriate rates also appears liable to be recovered from them, on the said amount of tax dues Rs. 45,72,716/- from them under Section 75 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013. By not paying service tax the declarant has contravened the provisions of Section 68 read with Section 65 & 66 of the Finance Act, 1994 and also read with Rule 6 of Service Tax Rules, 1994. Thus the declarant appears liable to penal action under Section 76 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013 for default in payment of tax dues. The declarant appears liable to penal action under Section 78 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013 for reasons of suppression of facts. The declarant is also required to pay late fees for not filing half yearly/quarterly service tax returns for the period Oct., 2007 to Dec., 2012 in terms of Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.

14. Now, therefore, M/s Raj West Power Ltd., Village & Post-Bhadresh, Post Box No. 30, Distt-Barmer are hereby called upon to show cause to the Commissioner, Central Excise Commissionerate, Jodhpur (Hqrs. at Jaipur), Statue Circle, C-Scheme, Jaipur-302005 (Raj.) within 30 days of the receipt of this notice as to why:

(i) The declaration filed by the declarant under VCES on 30.12.2013 should not be rejected under Section 111 of the Finance Act, 2013;

(ii) The remaining 'tax dues' i.e. Service Tax amounting to Rs. 45,72,716/- (Rs. 1,35,15,809/- minus Rs. 89,43,093/- already demanded) should not be demanded and recovered from them under proviso to Section 73(1) of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013; and also as to why the above demanded amount of Service Tax Rs. 45,72,716/- being already paid by declarant under VCES should not be appropriated in Govt. Account;

(iii) The interest at the applicable rates on the amount of tax dues amounting to Rs. 45,72,716/- should not be recovered from them under Section 75 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013;

(iv) Penalty should not be imposed upon them under the provisions of Section 78 of Finance Act, 1994 read with Section 111 of the Finance Act, 2013 for wilful suppression of the facts with the intent to evade payment of tax dues;

(v) Penalty should not be imposed upon them under the provisions of Section 76 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013 for non-payment of tax dues;

(vi) Late fees for should not be recovered from them for not filing half yearly/quarterly service tax returns for the period Oct.

2007 to Dec., 2012 in terms of Rule 7C of the Service Tax Rules, 1994 read with Section 70 of the Finance Act, 1994.”

6. A reply dated 16 February, 2015 was submitted by the appellant stating therein that though the appellant had declared the ‘tax dues’ payable under the head “Business Support Service” which was duly accepted by the Designated Authority and a discharge certificate was also issued under Section 107(7), of the Act but the Show Cause Notice dated 10 December 2014 did not indicate that there was any short payment or non payment of dues on the declaration so made. It was clarified that the service tax, if any, payable under “ Banking and Financial Service” under reverse charge mechanism was not the subject matter of the opted declaration as the appellant was under a bona fide belief that no tax was payable under reverse charge mechanism at the time declaration was made. It was, therefore, stated that for this reason the notice itself was liable to be set aside. In the alternative, it was stated that the appellant had also subsequently paid the service tax dues under the head “Banking and Financial Services” before issuance of the Show Cause Notice and, therefore, also the provisions of Section 101 of the Act would not apply. Yet, another alternative submission was made, that the Show Cause Notice was also contrary to the provisions of Section 73(3) of the Act.

7. The Principal Commissioner, however, did not accept the submissions made by the appellant in response to the Show Cause Notice and passed the following order :

ORDER

(i) The immunity under VCES as given under Section 108(2) of the Finance Act, 2013 is not available to the assessee, since the declaration filed by them has been found substantially false under Section 111 of the Finance Act, 2013;

(ii) I order recovery of remaining 'tax dues' i.e. Service Tax amounting to Rs. 45,72,716/- (Rs. 1,35,15,809/- minus Rs. 89,43,093/- already demanded) under Section 73(2) of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013 from the assessee;

(iii) I order appropriation of an amount of Rs. 45,72,716/- already deposited by the assessee in Govt. Account under VCES;

(iv) I order for recovery of interest at the applicable rates on the amount of service tax (tax dues) ordered to be recovered at (ii) above under Section 75 of the Finance Act, 1994 read with Section 111 of the Finance Act, 2013;

(v) I do not impose penalty under Section 76 of Finance Act, 1994 upon the assessee;

(vi) I impose penalty equal to the amount of service tax which pertain to the period from 01.04.2010 to 07.04.2011 and confirmed at (ii) above, under Section 78 of the Finance Act, 1994. However, if such service tax and the interest payable thereon determined above is paid within thirty days from the date of communication of this order, the amount of penalty liable to be paid by the assessee shall be twenty-five per cent of such service tax in terms of proviso to Section 78 of the Finance Act, 1994; however, the benefit of reduced penalty shall be available only if the amount of penalties have also been paid with other dues within the period of said thirty days;

(vii) I impose penalty of 50% of amount of service tax which pertain to the period from 08.04.2011 to 31.12.2012 and confirmed at (ii) above, under proviso to Section 78 of the Finance Act, 1994. However, if such service tax and the interest payable thereon determined above is paid within thirty days from the date of communication of this order, the amount of penalty liable to be paid by the assessee shall be twenty-five per cent of amount of service tax which pertain to the period from 08.04.2011 to 31.12.2012 and confirmed at (ii) above, in terms of proviso to Section 78 of the Finance Act, 1994; however, the benefit of reduced penalty shall be available only if the amount of penalties have also been paid with other dues within the period of said thirty days;

(viii) I impose late fee of Rs. 1,04,000/- (Rs.2,000/- per return for the year 2010-11 and Rs. 20,000/- per return for the year 2011-12 onwards) for non filing of 07 Service Tax Returns for the period from April to Sep., 2010, Oct., 2010 to March, 2011, 01.04.2011 to 30.09.2011, 01.10.2011 to 31.03.2012, 01.04.2012 to 30.06.2012, 01.07.2012 to 30.09.2012 and 01.10.2012 to 31.03.2013 under the provisions of Section 70 of the Finance Act, 1994 read with Rule 7C of the Service Tax Rules, 1994 on the assessee.

This order is issued without prejudice to any other action that may be taken against the assessee or any other person under the prevailing law relating to Service Tax or any other law for the time being in force."

8. The Principal Commissioner noticed that "tax dues" meant the service tax due or payable under the Chapter for the period beginning from the 1st day of October, 2007 and ending on 31st day of December, 2012 but not paid as on the 1st day of March, 2013. Thus, **all** service tax dues for the period beginning from 1 October 2007 and ending on 31 December 2012 have to be paid under the 2013 Scheme and there is no option in this Scheme to declare service tax payable on some services and not to disclose tax dues payable on other services. Thereafter, the Principal Commissioner examined as to whether the appellant was in fact required to pay service tax under the category "Banking and Financial Services" towards the charges paid in foreign currency for external commercial borrowings under the reverse charge mechanism. The decision of the Mumbai Bench of the Tribunal in **J.M. Financial Services Private Limited Vs. Commissioner, Service Tax, Mumbai - 2014 (36) STR 151 (Tri.-Mumbai)**, which holds that the activities carried out could not be subject to service tax under "Banking and Financial Services" and which was placed by the appellant before the Commissioner was not accepted by the Principal Commissioner for the reason the department had filed an appeal against the said order of the Tribunal before the High Court. The Principal Commissioner, therefore, held that the declaration filed by the appellant on 30 December, 2013 was 'substantially false' and, thus, liable to be rejected under Section 111(1) of the Act and passed the order quoted above.

9. Shri Anirudh Samant Roy, learned Counsel for the appellant made the following submissions:

- (i) The appellant had not made any "substantially false" declaration under 2013 Scheme in regard to the service that was declared namely, "Business Support Service" and "Manpower Supply" and indeed none has been found in the Show Cause Notice dated 10 December 2014 for this service and, therefore, the provisions of Section 111 of the Act could not have been resorted to, even if the appellant had not made a declaration regarding tax for obtaining the service of "Banking and Financial Services;
- (ii) To elaborate this submission, learned Counsel placed reliance upon the provisions of the 2013 Scheme and in particular to the Second proviso to Section 106 and to the clarifications contained in the Circular dated 8 August 2013 (in particular to the issues contained at Serial Nos. 6, 8 and 15);
- (iii) In the alternative, learned Counsel submitted that the appellant was not required to pay any tax on the service classified as "Banking and Financial Services", in view of the decision of the Tribunal in **J.M. Financial Services Private Limited** and so, there was no necessity for the appellant to disclose this service in the declaration filed by the appellant on 30 December, 2013 under the 2013 Scheme; and
- (iv) In any view of the matter, the Show Cause Notice deserves to be set aside as no ground contained in Section 73 of the Act has been mentioned for demand of tax.

10. Shri R.K. Manjhi, learned Representative of the Department appearing has, however, supported the impugned order and has submitted:

- (i) That in view of the provisions of Rule 7 of the 2013 Rules, the appellant had necessarily to disclose "all" the tax dues in the declaration filed by him on 30 December, 2013 under the 2013 Scheme, but as the appellant failed to disclose "Banking and Financial Services" in the declaration, nor any tax was paid on it, the appellant had made a "substantially false" statement as a result which it was open to the Department to initiate proceedings under Section 111(1) of the Act;
- (ii) That it was not open to the appellant to pick up only one taxable service out of the many taxable services while submitting the declaration under Section 107(1) of the Act;
- (iii) That even the Budget Speech of the Hon'ble Minister of Finance for the year 2013-2014 clearly supports the view that the appellant had to disclose "**ALL**" the taxable services in the declaration made on 30 December 2013; and
- (iv) The Show Cause Notice and the impugned order do not suffer from any illegality.

11. We have considered the submissions advanced by the learned Counsel of the appellant and the learned Representative of the Department.

12. The Budget Speech of the Hon'ble Minister of Finance for the Budget 2013-2014 gives reasons as to why the 2013 scheme was

introduced. The Hon'ble Finance Minister stated that while there were nearly 17,00,000/- registered assesses under the Service Tax Department, only about 7,00,000/- filed returns, and it was not possible for the Government to go after each of them. Such assesees had to be motivated to file returns and pay tax dues and it is for this reason that the 2013 Scheme was being introduced under which a defaulter could avail the scheme on the condition that he filed a truthful declaration of service tax dues since 1 October 2007 and makes the payment in one or two instalments before the prescribed dates, in which case interest and penalty and other consequences would be waived.

13. To appreciate the contentions advanced by learned Counsel for the appellant and the learned representative of the Department, it will be appropriate to reproduce the provision of Sub-Section (1) of Section 106, Section 107, Section 108 and Section 111 and they are as follows:

"106. Person who may make declaration of tax dues.

(1)Any person may declare his tax dues in respect of which no notice or an order of determination under section 72 or section 73 or section 73A of the Chapter has been issued or made before the 1st day of March, 2013:

Provided that any person who has furnished return under section 70 of the Chapter and disclosed his true liability, but has not paid the disclosed amount of service tax or any part thereof, shall not be eligible to make declaration for the period covered by the said return:

Provided further that where a notice or an order of determination has been issued to a person in respect of any period on any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period."

107. Procedure for making declaration and payment of tax dues.—

(1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2013 in such form and in such manner as may be prescribed.

(2) The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.

(3) The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent. of the tax dues so declared under sub-section (1) and submit proof of such payment to the designated authority.

(4) The tax dues or part thereof remaining to be paid after the payment made under sub-section (3) shall be paid by the declarant on or before the 30th day of June, 2014:

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

(5) Notwithstanding anything contained in sub-section (3) and sub-section (4), any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.

(6) The declarant shall furnish to the designated authority details of payment made from time to time under this Scheme along with a copy of acknowledgement issued to him under sub-section (2).

(7) On furnishing the details of full payment of declared tax dues and the interest, if any, payable under the proviso to sub-section (4) the designated authority shall issue an acknowledgement of discharge of such dues to the declarant in such form and in such manner as may be prescribed.

108. Immunity from penalty, interest and other proceeding.—

(1) Notwithstanding anything contained in any provision of the Chapter, the declarant, upon payment of the tax dues declared by him under sub-section (1) of section 107 and the interest payable under the proviso to sub-section (4) thereof, shall get immunity from penalty, interest or any other proceeding under the Chapter.

(2) Subject to the provisions of section 111, a declaration made under sub-section (1) of section 107 shall become conclusive upon issuance of acknowledgement of discharge under sub-section (7) of section 107 and no matter shall be reopened thereafter in any proceedings under the Chapter before any authority or court relating to the period covered by such declaration."

111. Failure to make true declaration.—

(1) Where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid.

(2) No action shall be taken under sub-section (1) after the expiry of one year from the date of declaration.

(3) The show cause notice issued under sub-section (1) shall be deemed to have been issued under section 73, or as the case may be, under section 73A of the Chapter and the provisions of the Chapter shall accordingly apply."

14. "Tax dues" dues have been defined in Section 105(e) of the Act to mean the service tax due or payable under the Chapter for the period beginning from 1 October 2007 and ending on 31 December 2012 but not paid as on 1st day of March, 2013. The second proviso to Section 106 is important and throws light on the submissions made by the learned Counsel for the appellant. While sub section (1) of Section 106 provides that any person may declare his 'tax dues' in respect of which no notice or an order of determination under Section 72 or Section 73 or Section 73 has been issued or made before 1 March 2013, the second proviso stipulates that where a notice or an order of determination has been issued to any person in respect of any period on **any issue**, no declaration shall be made of a tax dues on the **same issue** for any subsequent period. It thus permits any person to make a declaration in regard to an issue not covered by the notice or an order of determination. It, therefore, contemplates that there can be many issues but a declaration could be made on some issue(s).

15. The Circular dated 8 August, 2013 issued in connection with the clarifications regarding the applicability of 2013 Scheme also makes this clear. The issue at Serial No. 6 is reproduced below :

6.	In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES, 2012?	Yes, declarant can declare the "tax dues" concerning an issue which is not a part of the audit para.
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16. This issue at Serial No. 6 in regard to a case where the assessee has been audited and audit paragraph has been issued, has been clarified that the declarant can declare " tax dues" concerning an issue which is not a part of the audit paragraph. This would also lead to an inference that for any action to be taken under Section 111(1) of the Act, the Commissioner of Central Excise should have reasons to believe that the declaration made by declarant under the Scheme was substantially false in relation to the specific service mentioned by the declarant in the declaration and the Department cannot invoke the provisions of this section in regard to a service for which a declaration was not made, but the Department has reasons to believe that tax for that service should also have been included in the declaration.

17. In the present case, as noticed above, the appellant had declared the service tax on reimbursement of expenses under "Business Support Service" even though in law, the appellant may not have been required to pay service tax in view of the decision of the Supreme Court in **Union of India Vs. Intercontinental Consultants and Technocrats Private Limited** reported in **2018**

(10) G.S.T.L. 401 (SC). It was also submitted by the appellant before the learned Commissioner that the appellant was not required to pay service tax on the service classified as "Banking and Financial Services" in view of the decision of the Tribunal in **J.M. Financial Services Private Limited** but the Principal Commissioner brushed aside this judgement only for the reason that the Department had filed an appeal before the Supreme Court against this order.

18. It is also not in dispute that the Department has not found anything false much less substantially false, in the declaration made by the appellant on 30 December 2013 in regard to "Business Support Service". The Show cause notice, however, proceeds on the footing that the appellant failed to disclose the services in regard to "Banking and Financial Services."

19. The representative of the Department has, however, placed reliance upon Rule 7 of the 2013 Rules to contend that a declarant has necessarily to make a declaration in respect of **"all tax dues"**. In this connection, reliance has been placed on Rule of 4 of the Rules, that provides that "the declaration under sub-section (1) of section 107 of the Act in respect of tax dues under the Scheme shall be made in Form VCES-1."

Form VCES-I, referred to in Rule 4 is reproduced below :

FORM VCES-1

[In duplicate]

Declaration under sub section (1) of section 107 of the Act.

(Please read the instructions carefully before filling the form)

1. Name of the declarant

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2. Address of the declarant

3. Telephone No.

4. E-mail id

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5. Service Tax Code (STC No.)

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6. Details of tax dues*

(A) Service tax

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(B) Education cess`

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(C) Secondary & Higher Education Cess`

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(D) Amount under section 37A of the Finance Act, 1994`

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(E) Total Tax dues* [A+B+C+D]`

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*Furnish a calculation sheet separately [for the purposes of calculation of tax dues, the manner of calculation as prescribed in S. No. 3F (I), or as the case may be, the Part 'B' of Form ST-3, as existed during relevant period may be used and calculation of tax dues may be furnished tax return period wise, and service wise if the tax dues relates to more than one service.]”

20. The contention of the learned Representative of the Department is that since the calculation sheet is required to be

separately furnished if the 'tax dues' relate to more than one service, it necessarily means that the 'tax dues' in respect of all the service should be included in the declaration.

21. We find it difficult to accept this submission of the Representative of the Department. The form requires a declarant to furnish a calculation sheet separately if service tax dues is in respect of more than one service. It is in such a situation, that the declarant has to furnish separate calculation sheets. It does not mean, under any circumstances, that a declarant must necessarily disclose 'all the taxes dues' to take the benefit of 2013 Scheme. If a declarant does not make a declaration with regard to some of the taxable services in the declaration form, nothing prevents the Department from initiating appropriate proceedings under the Act. In the instant case, the Department has, in fact initiated proceedings in regard to the alleged non payment of service tax under the 'Banking and Financial Services'.

22. It is also not possible to accept the contention of learned Representative of the Department that the Budget Speech of the Hon'ble Minister of Finance indicates that the appellant had to disclose **"all"** taxable services in the declaration made on 30 December, 2013. The Speech of the Hon'ble Minister does not even remotely suggest that **"all"** the services had necessarily to be disclosed in the declaration under the 2013 Scheme.

23. The Commissioner, therefore, committed an error in holding that any person who decides to declare tax dues under the scheme

has to declare **"all"** service tax dues and there is no option to include some service and leave out some services.

24. Thus, for all reasons stated above, it is not possible to sustain the order dated 20 July 2015. It is, accordingly, set aside.

(Bijay Kumar)
Member (Technical)

(Justice Dilip Gupta)
President

RM