

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Single Member Bench

Court – II

Service Tax Appeal No. 30202 of 2023

(Arising out of Order-in-Appeal No.HYD-SVTAX-SC-AP2-084-22-23 dt.29.11.2022 passed by
Commissioner of Central Tax, Hyderabad-II)

Shri P. Ramesh Kumar

Near Sindhi Colony, Secunderabad,
Hyderabad, Telangana – 500 003

.... **Appellant**

VERSUS

**Commissioner of Central Tax
Secunderabad-GST**

Secunderabad Commissionerate,
Hyderabad, Telangana – 500 004

.... **Respondent**

Appearance

Shri V.S. Sudhir, CA for the Appellant.

Shri V. Srikanth Rao, AR for the Respondent.

Coram:

HON'BLE Mr. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO. A/30235/2023

Date of Hearing: 05.09.2023

Date of Decision: 05.09.2023

[Order per: R. MURALIDHAR]

The Appellant Shri P. Ramesh Kumar is the Managing Director of M/s Balaji Pressure Vessels Pvt Ltd (BPVL for short). On the ground that his credit card was used to make payments to "Facebook" by way of foreign exchange and the amount used in this credit card has been reimbursed by BPVL, the Department issued Show Cause Notice to Mr. P. Ramesh Kumar seeking to recover Service Tax on such foreign exchange outflow on RCM basis. The Appellant submitted before the Lower Authorities that one of his friends, Mr. Y. Ravindra Reddy of M/s AB Creatives has sought his help and the credit card facility was given to him to make the payments through this credit card. For the usage of credit card, whenever such amounts were debited in foreign exchange, subsequently, Mr. Y. Ravindra Reddy used to reimburse the entire amount. Therefore, it was the submission of the Appellant that the services of "Facebook" was neither used by him nor used by the Company BPVL. Before the Adjudicating Authority, they have produced a copy of the Certificate issued by

the CA of Mr. Y. Ravindra Reddy stating that he has used an amount of Rs.72,43,704/- towards FB online transactions for which the credit card of the Appellant has been used. This Certificate has been issued by the Auditor of M/s AB Creatives, wherein Mr. Y. Ravindra Reddy is the proprietor. Similarly, V. Sridhar and Company, Chartered Accountants of the Appellant have certified that his credit card was used and the payment of Rs.72,43,704/- has been totally incurred on such transactions. The Appellant submitted that since both the CA Certificates fully tally, it is clear that the Appellant has no role in making the payments to 'Facebook' and no service has been imported by him from 'Facebook' making him liable to pay the Service Tax on RCM basis as demanded. After due process, the Lower Authorities confirmed the demand. Being aggrieved, the Appellant is before the Tribunal.

2. The learned CA appearing on behalf of the Appellant takes us through the documentary evidence by way of ledger account maintained by BPVL and copies of the CA Certificates to put forth the fact that the Appellant had no role in importing any service from Facebook and all the expenses shown under his credit card were actually incurred by Mr. Y. Ravindra Reddy of M/s AB Creatives. He further submits that CA Certificates produced by them before the Lower Authorities were neither considered nor rebutted. In view of the foregoing, the learned CA submits that present Appeal is required to be allowed.

3. Learned AR reiterates the findings of the Lower Authorities. He further submits that the Appellant has failed to prove very clearly that there was any agreement between the Appellant and Mr. Y. Ravindra Reddy to the effect that the credit card will be used by Mr. Y. Ravindra Reddy, the same will be initially debited to the credit card account and subsequently, Mr. Y. Ravindra Reddy will make the payments. Therefore, he justifies the confirmed demands.

4. Heard both sides and perused the documents.

5. I find that the Department has recorded the statement of the Appellant and Mr. Y. Ravindra Reddy. Nowhere in these statements had they stated that the 'Facebook' transactions were on account of BPVL. The CA Certificate proves that both the parties have properly accounted for the credit card expenditure. Admittedly, the expenditure was only on account of 'Facebook' transactions incurred by Mr. Y. Ravindra Reddy. However, Department has not come out with any proper evidence that this was any kind of business expenses incurred by BPVL. Further, it is surprising that the SCN has been issued to the Appellant

(3)

in his individual capacity. If any individual imports any service in his personal capacity, there is no liability on him to pay Service Tax so long as it is not for any business purpose. In the present case, the Department has failed to establish that the service was imported by the Appellant and was used for business purpose. The Department has not rebutted the fact that this was used by Mr. Y. Ravindra Reddy. Again, strangely, Mr. Y. Ravindra Reddy has not been made co-noticee in the entire proceedings. There is no allegation that BPVL which is a private limited company has used the services of Facebook and made the payment indirectly through the credit card of the present Appellant. The entire premise under which the SCN has been issued is flawed and the Department could not have issued SCN to an individual without properly connecting the usage of the credit card expenses for business purposes by him.

6. In view of the above findings, I hold that the Impugned Order is legally not sustainable and I set aside the same. The Appeal is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in the open Court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Veda