IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/60327-60329/2013-CU[DB]

(Arising out of Orders-in-Appeal Nos. MRT-EXCUS-002-APP-69, 72 and 73/2013-14 dated 31/07/2013, 01/08/2013 & 02/08/2013 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

M/s Sher Mohammad (in Appeal No. ST/60327/2013)**,**

M/s Bhag Mal (in Appeal No. ST/60328/2013) **&**

Shokat Ali (in Appeal No. ST/60329/2013) **Appellant(s)**

Vs.

Commissioner of Central Excise, Meerut-II **Respondent(s)**

Appearance:

Shri S. Sunil (Advocate) for Appellant(s)
Shri Sandeep Kumar Singh (Dy. Commr.) AR for Respondent(s)

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 27/02/2018
Date of Decision : 27/02/2018

FINAL ORDER NOs. 70811-70813/2018

Per: Anil G. Shakkarwar

Above stated three appeals are having same issue involved and, therefore, they are taken together for decision.

2. Brief facts of the case are that the appellants were contractors engaged by Merino Industries Ltd., Hapur. On the basis of information received about the present three appellants, the statements of the appellants were

independently recorded and on the basis of statements it appeared to Revenue that the said appellants were providing repair and maintenance service to Merino Industries Ltd. Therefore, show cause notices were issued for demand of service tax under the head of repair and maintenance service. Show cause notices also indicated that the information was received from Merino Industries Ltd. Also on 08.11.2010 statements independently of the said appellants were recorded. Show cause notices were adjudicated through Order-in-Original where the demands were confirmed. Aggrieved by the said orders, appellants preferred appeals which were decided through impugned Orders-in-Appeal. The learned Commissioner (Appeals) did not interfere with the Original Authority's orders and, therefore, the appellants are before this Tribunal.

3. Heard the learned counsel for the appellants who has taken us through some of the invoices raised by the appellants. He has also taken us through the statements of Shri Sher Mohammad, Shri Bhag Mal and Shri Shokat Ali dated 08.11.2010 wherein the statements are similarly worded. The appellants had submitted that they were engaged in maintenance of immovable property of Merino Industries Ltd.

4. Heard the learned AR who has supported the impugned Orders-in- Appeal.

5. Having considered the rival contention and on perusal of record particularly on perusal of statements dated 08.11.2010 all of the above stated appellants, we find that they were engaged in maintenance of immovable property of Merino Industries Ltd. The said activity is not covered by repair and maintenance service. Therefore, we do not find any merit in the proceedings and, therefore, we set aside the impugned Orders-in-Appeal and allow all the appeals. The appellants shall be entitled for consequential relief as per law.

(Dictated and pronounced in Court)

Sd/-	**Sd/-**
(Anil Choudhary)	**(Anil G. Shakkarwar)**
Member (Judicial)	**Member (Technical)**

Ankit