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

APPEAL No.ST/1042/2011-CU[DB]

(Arising out of Order-in-Appeal No. 56/ST/Alld/2011 dated 31/03/2011 passed by Commissioner of Central Excise (Appeals), Allahabad)

M/s Utility Powertech Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Ms Stuti Saggi, Advocate for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 04/07/2018
Date of Decision : 04/07/2018

FINAL ORDER NO-**71470 / 2018**

Per: Archana Wadhwa

The appellant was treating the water for M/s Sigrauli Super Thermal Power Station by chemical. The revenue by holding that the same would amount to providing service under the category of Business Auxiliary Services raised and confirmed the demand for the period 10.09.2004 to November, 2004 by raising a show cause notice on 25.03.2008 to the extent of Rs.19,376/- and also imposed penalty upon them.

2. The appellant contention is that the Business Auxiliary Services were amended with effect from 16.06.2005 and processing of goods for or on behalf of client was introduced under the said category only w.e.f. the said date. Inasmuch as, the period is prior to 16.06.2005, no tax liability would arise against them. For the above proposition, reliance is placed upon the Tribunal's decision in the case of M/s Hitech Industrial Lining Pvt. Ltd. Vs Commissioner of Central Excise, Salem reported as 2018 (8) GSTL 290 (Tri.-Chennai).

3. We note that apart from the fact the issue is covered by the said decision of the Tribunal in favour of the assessee, the demand is also barred by limitation having been raised after the normal period. In the absence of any positive evidence to reflect upon any malafide on the part of the assessee, extended period is not available to the Revenue.

4. In view of the forgoing, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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