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

**APPEAL No. ST/1645/2011-CU[DB]**

(Arising out of Order-in-Original No.09/COMMR./LKO/ST/2011 dated 29/07/2011 passed by Commissioner of Central Excise & Service Tax, Lucknow)

**M/s Central Bank of India** **Appellant**

Vs.

**Commissioner of Central Excise**

**& Service Tax, Lucknow** **Respondent**

Appearance:

Shri Kartikeya Narain (Advocate) for Appellant
Shri Mohd. Altaf (Asstt. Commr.) AR for Respondent

**CORAM:**

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

Date of Hearing : 08/08/2018
Date of Decision : 08/08/2018

FINAL ORDER NO. - **71915/2018**

**Per: Archana Wadhwa**

Only challenge in the present appeal is to penalty imposed upon the appellant in terms of provisions of Section 78 of the Finance Act, 1994.

2. The appellant is engaged in providing services falling under the category of 'Banking and Financial

Services' and is duly registered with the department and was accordingly discharging its tax obligation.

3. It was found that the appellant had not paid service tax to the tune of Rs.1,67,22,095/- in respect of services rendered to M/s Uttar Pradesh Power Corporation Ltd. The said fact came to the notice of the Revenue by comparing the ST-3 Returns figures with the entries made in profit and loss account as also in balance sheet.

4. Appellant clarified that they were under a *bona fide* belief that inasmuch as services were being provided to State Governments, there was no obligation on their part to pay the service tax. Further they agreed with the Revenue and deposited the service tax within the period of thirty days from the issuance of show cause notice. In the above scenario, the appellant's contention is that there was a *bona fide* reason for them to entertain the reasonable belief that the services which have been provided by them to the State Governments, would not be taxable. There is no evidence on record to reflect upon any *mala fide* of the assessee so as to invoke the penal provisions against them. Further the appellant is a public sector undertakings of Government of India and as such

cannot have any *mala fide* intent to evade payment of duty.

5. Appreciating the above submissions, we find no justifiable reasons to invoke penal provisions against the appellant. Accordingly while confirming the demand of service tax along with interest, we set aside the penalty imposed under Section 78 and under Section 77 of the Finance Act and allow the appeal to that extent.

(Dictated & Pronounced in Court)

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|---|---|
| **Sd/-** | **Sd/-** |
| **(Anil G. Shakkarwar)** | **(Archana Wadhwa)** |
| **Member (Technical)** | **Member (Judicial)** |

*Lks*